S. Hrg. 101-469

VETERANS' EDUCATION AND DISABILITY COMPENSATION LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 13 (Title I), Amendment No. 110 to S. 190, S. 564, S. 1003, and S. 1092

JUNE 9, 1989

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VETERANS' EDUCATION AND DISABILITY COMPENSATION LEGISLATION

FRIDAY, JUNE 9, 1989

U.S. Senate,
Committee on Veterans' Affairs,
Washington, DC.

The committee met, pursuant to notice, at 2:10 p.m., in room SR-418, Russell Senate Office Building, Hon. Alan Cranston (chairman of the committee) presiding.

Present: Senators Cranston, Matsunaga, Rockefeller, and Thurmond.

OPENING STATEMENT OF CHAIRMAN CRANSTON

Chairman Cranston. The hearing will come to order, please. I was waiting for Sparky Matsunaga, who is going to preside today, but he is momentarily detained.

I thank all of you for your presence, those at the witness table and others who have interest in our activities today. I want to thank Senator Matsunaga for responding to my request that he chair this hearing. Spark is a very active and outstanding member of this committee, and I greatly appreciate his help this afternoon. I congratulate him on the two measures he has introduced on which we are hearing testimony today.

I have detailed—I will repeat these remarks. Sparky is a very active and outstanding member of this committee.

[Laughter, as Senator Matsunaga enters.]

Chairman Cranston. I greatly appreciate his help this afternoon. I congratulate him on the two measures he has introduced, on which we are hearing testimony today.

I have a detailed opening statement on the press table that describes the provisions of legislation before us, and that statement will appear in the hearing record.

I want to thank today's witnesses for their very supportive testimony on the provisions of the various bills I authored or cosponsored, and their constructive recommendations for improving them. I also thank all witnesses for getting their prepared statements to us in advance. That is extremely helpful.

My appreciation goes equally to VA and the Department of Defense, which had a number of legislative provisions to take positions on in a very short period. VA's testimony, particularly, was generally quite constructive and positive, and I appreciate your effort to be both timely and responsive.

Before I depart, I would like to take just a few moments to express to VA Chief Benefits Director, John Vogel, my appreciation for the work of VA regional office staff throughout the country in assisting the families and loved ones of the 47 men who tragically lost their lives during a gun-turret explosion aboard the U.S.S. *Iowa* on April 19. I do thank you for that.

It is the men and women in uniform, not the weapons or the technology, that are the heart of our Nation's defense. The U.S.S. *Iowa* tragedy, like similar tragedies in recent years in Beirut, Gander, and the Persian Gulf, vividly demonstrates the difficulty and danger of military service, even in times of peace.

Immediately after that incident, VA's Veterans Assistance Service and the Department of the Navy began communicating. Likewise, the Norfolk Naval Base and the Roanoke VA regional office developed a joint services program for surviving family members. Throughout the Nation, a network of Navy and VA staff, operating as a team, met with families through a program known as Casualty Assistance, explaining benefits, helping prepare applications, and expediting their processing.

Within a matter of days, VA paid Servicemen's Group Life Insurance benefits totaling $2 million. In addition, survivors will soon receive monthly DIC checks. Surviving spouses and children are also eligible for other benefits for which some applications have already been filed. Dedicated VA employees have done their job quickly and with compassion. These employees have our gratitude.

I want to say a few words about the Commission on Veterans' Education Policy. I applaud the Commission members for outstanding contributions under the very fine leadership of Chairman Janet Steiger. Janet has brought dynamic leadership and a real vitality to this project, as we knew she would.

I also want to applaud and congratulate the Commission's Executive Director, Babette Polzer, for her excellent work on the Commission. I am proud of Babette's fine accomplishments at the Commission following her work as a staff advisor to me and to the committee for some 12 years.

Finally, I want to make special note of the many contributions to the Commission's work by three particular Commission members: My very close friend and advisor, Oliver Meadows, who is chairman of the Secretary of Veterans Affairs Advisory Committee on Education; my constituent, Bertie Rowland, a past president of the National Association of Veterans Program Administrators; and my good friend and former staff aide, Jack Wickes.

I also want to acknowledge the excellent cooperation and valuable assistance that the many career professionals in VBA provided to the Commission and in the preparation of the Secretary's interim report on the Commission's recommendations.

In closing, I note that I will be reviewing carefully the testimony of each of our witnesses this morning and I again express my deep appreciation to Senator Matsunaga for chairing this hearing.

Thank you very much, Sparky.

[The prepared statement of Chairman Cranston appears on p. 81.]

Senator **Matsunaga**. Before the Chairman leaves the room, I want to thank him for his kind words. It is not often that you hear the truth about yourself. [Laughter.]

Chairman **Cranston**. That was the truth.

OPENING STATEMENT OF SENATOR MATSUNAGA

Senator **Matsunaga**. Thank you.

Thank you, all of you, for being here on time to listen to the chairman make his opening statement. I have an opening statement, rather brief, and with your forbearance I'll say, good afternoon to you all, and welcome to this afternoon's hearing to consider various veterans' benefit measures and the report of the Commission on Veterans' Education Policy.

I'm very pleased to honor Chairman Cranston's request that I chair this hearing because educational assistance programs for those who serve in our Nation's Armed Forces have been a special focus and priority of mine as a member of this committee. I was also delighted to join the chairman, and the distinguished ranking minority member, Senator Murkowski, in cosponsoring S. 1092, to implement certain recommendations of the Commission.

Additionally, I would like to thank Chairman Cranston for agreeing to have two of my bills considered at this hearing. The first of these bills, S. 564, would generally require that one of the six Assistant Secretaries of Veterans Affairs be assigned specific responsibility for monitoring and promoting access of minorities, including women, to veterans' services and benefits. The purpose of the bill is to ensure that the concerns of minority veterans, who typically subutilize the services and benefits to which they are entitled, are made an integral part of VA's policymaking process. I am pleased to note that S. 564 already has 17 cosponsors, two of whom, the chairman and ranking minority member of this committee, should be recognized for suggesting numerous improvements to the bill. I understand that much testimony in support of this legislation has been submitted in the prepared statements, and I look forward to hearing comments on the bill from some of our distinguished witnesses.

The second of my bills under consideration today, amendment No. 110, has to do with the unjust and anachronistic statutory offset between VA disability compensation and military retirement pay. This important issue was aired in House Veterans' Affairs Committee hearings last year on Congressman Bilirakis' bill to eliminate the offset, H.R. 303, which has received the support of the majority of Full House Members. It is, therefore, appropriate that the issue be ventilated in the Senate as well. I thank Chairman Cranston for generously agreeing to include amendment No. 110 in today's agenda. I believe this measure, which is similar to S. 563, a bill I introduced on March 9, is a fiscally prudent, yet equitable measure which the committee can support in good fiscal conscience. I look forward to hearing the views of the administration and the vets and military organizations on this matter.

We have a full agenda and a distinguished array of witnesses this afternoon. We will be receiving views from VA and the Department of Defense, as well as from organizations representing our Nation's veterans, the Armed Forces members, and the higher education community.

I look forward to hearing from each of the witnesses.

Before proceeding, I would like to remind everyone that since we have many, many witnesses today, we ask that each witness limit his or her oral testimony to 5 minutes so that we will have sufficient time for questions. We will be using the lights here for this purpose. When you see the yellow light, you have 1 minute remaining on your time. When you see the red light and hear the bell, your 5 minutes have expired so please conclude your remarks. We have asked all witnesses for prepared statements, which, of course, will be printed in full in the hearing record.

We also have received written testimony from the American Veterans Committee, National Association for Uniformed Services, Fleet Reserve Association, Vietnam Veterans of America, National Home Study Council, Reserve Officers Association of the United States, Oliver Meadows, Southern California Veterans Services Council, Inc., and Ashville-Buncombe Technical Community College. Their testimony will be inserted into the hearing record, as well.

And I understand that Senator Murkowski has been delayed, and he requests that his statement appear in the record in full. And so, without objection, it will appear in the record in full.

[The prepared statement of Senator Murkowski appears on p. 86.]

Senator MATSUNAGA. Well, I see Senator Thurmond is here now. And I'm certainly glad to see that we have representation on that side. Is there an opening statement?

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you very much, Mr. Chairman.

Mr. Chairman, it is a pleasure to be here this afternoon to receive testimony on several bills pertaining to veterans' benefits. Specifically, I am pleased that we will be receiving testimony on the proposed cost-of-living adjustment for the rates of disability compensation, vocational rehabilitation assistance, and education assistance to dependents and survivors of veterans. I look forward to also reviewing testimony on education programs, legislation which would permit concurrent receipt of VA disability compensation and military retirement pay, as well as legislation which assigns one of the Assistant Secretaries oversight responsibilities for minorities.

Mr. Chairman, I would like to make some brief observations about S. 564, which would assign oversight responsibilities for minorities to one of the Assistant Secretaries at the Department of Veterans Affairs. With a new Department in place, I question whether it is wise for us to be making changes in the Department of Veterans Affairs Act so soon after its enactment. As the Department of Veterans Affairs has indicated in their written testimony, by assigning implementation responsibilities to an Assistant Secretary this legislation in effect assigns line responsibility to a staff officer. We must be careful about micromanaging the new Department so soon after its establishment. It may be more prudent to leave the flexibility with the Department.

I might also add that Secretary Derwinski has indicated on several occasions his commitment to be an advocate for all veterans. And I am sure he means what he says. In addition, the equal employment opportunity function, which is already assigned to one of the Assistant Secretaries appears to be sufficiently broad to provide for oversight of minority veterans. We certainly want to take care of minority veterans, along with all other veterans. We want to treat all veterans alike.

Finally, Mr. Chairman, I am pleased that we will be receiving testimony on legislation authorizing concurrent receipt of VA disability compensation and military retirement pay without an offset. This is a matter over which there are many strong feelings. With this in mind, we must ensure that this proposal is reviewed in a rational and objective fashion. And I am committed to doing that both in this committee and in the Armed Services Committee, should the chairman of that committee also decide to consider the matter.

Mr. Chairman, I will not be able to stay for the duration of the hearing because of other commitments. I want to thank the witnesses for being here today, and I intend to carefully review their testimony. And, Mr. Chairman, thank you very much.

Senator MATSUNAGA. Thank you, Senator Thurmond. We appreciate your coming.

I would now like to welcome our first witness this afternoon, Mr. John Vogel, Chief Benefits Director of the Department of Veterans Affairs. He is accompanied by Mr. Grady Horton, the Deputy Chief Benefits Director for Program Management; Mr. Gary Hickman, the Director of Compensation and Pension Service; and Dr. Dennis Wyant, Director of the Vocational Rehabilitation and Education Service, all of the VA's Veterans Benefits Administration.

Well, gentlemen, I appreciate you being here, and will you please proceed, Mr. Vogel?

STATEMENT OF R. JOHN VOGEL, CHIEF BENEFITS DIRECTOR, DEPARTMENT OF VETERANS AFFAIRS, ACCOMPANIED BY GRADY W. HORTON, DEPUTY CHIEF BENEFITS DIRECTOR FOR PROGRAM MANAGEMENT; GARY HICKMAN, DIRECTOR, COMPENSATION AND PENSION SERVICE; AND DR. DENNIS R. WYANT, DIRECTOR, VOCATIONAL REHABILITATION AND EDUCATION SERVICE

Mr. VOGEL. Thank you, Senator Matsunaga. I would ask that you kindly express to Chairman Cranston my appreciation for the gracious expression of thanks he made for the work that our fine people did in conjunction with the U.S. Navy in providing casualty assistance to the families of those brave men who lost their lives on the U.S.S. *Iowa*. He was very gracious to say that, and I, on behalf of the employees in VA and the Veterans Benefits Administration, appreciate that.

I'm pleased to be here today to discuss several measures pending before the committee: title I of S. 13; S. 564; the report of the Commission to Assess Veterans Education Policy; S. 1092; S. 1003; and your, Senator Matsunaga's recent proposed amendment to S. 190. In recognition of the time constraints my remarks will be brief, but I ask that our formal statement be inserted in the record.

Senator **Matsunaga**. Without objection, so ordered.

Mr. **Vogel**. First, VA supports most of the provisions of title I of S. 13. Section 101 of S. 13 would authorize cost-of-living increases in the statutory rates of compensation and DIC benefits at the same percentage as will be provided to social security recipients and VA pension beneficiaries.

The administration strongly supports COLA's for these most deserving beneficiaries, but believes that the committee should reconsider the administration's proposal currently in S. 613 to index these increases permanently to the Consumer Price Index, as the Congress has done in the pension program. In this way we can avoid the delays veterans risk in separate annual bills.

Sections 102 and 103 would increase subsistence allowances paid to veterans participating in vocational rehabilitation, and the rates of educational assistance paid to survivors and dependents under chapter 35, by 13.8 percent, effective January 1, 1990.

While we cannot support a rate increase of that magnitude, VA does support a 5 percent increase for these benefits in the context of overall budget negotiations.

Section 111 would expand the clothing allowance to veterans with a service-connected skin condition who use medication which the Secretary determines stains or otherwise damages the veterans' clothing. We strongly support this compassionate provision.

Section 112 deals with the reduction of pension benefits for veterans who are receiving extended care at VA expense in hospitals, nursing homes, and domiciliaries. It would change the law to increase the amount payable for all such veterans to $105, and in the case of hospitalization, postpone reduction of payments from 3 to 8 months following admission.

With respect to the change from $60 to $105 per month, the current amount has been in force since 1979. We believe that an increase is warranted, and we support it. We also support the extension of time before pension is reduced for a hospitalized pensioner. While the Government furnishes the great part of the support for a hospitalized veteran without dependents, the veteran may have continuing obligations and fixed expenses, such as rent. Unfortunately, the current system may leave the veteran with the difficult choice of remaining in the hospital until well, and losing home and personal possessions, or of leaving the hospital prematurely in order to meet continuing obligations. Further, if the veteran remains long enough for the current reduction to go into effect, the institutional stay may be unnecessarily prolonged because it may be difficult to place the veteran back in the community due to a lack of funds.

We also support section 113, which would extend the Veterans' Readjustment Appointment authority for certain classes of veterans through December 31, 1991.

Section 121 would expand the Department's multiyear procurement authority to include acquisition of supplies and services for uses in other than health-care facilities. The administration strongly supports section 121.

S. 564 would amend the Department of Veterans Affairs Act by adding an item concerning minority veterans to the list of functions to be assigned to the Assistant Secretaries. While the Department supports legislation to assist minority veterans, we oppose the bill for three reasons. First, it would restrict the Secretary's authority to place responsibility for implementing policies; second, it would essentially duplicate an existing provision of law; third, the activities contemplated by the proposed bill have already been incorporated in the structure set up by the Department to assist minority veterans.

My next subject is the recommendations of the Commission to Assess Education Policy. I want to express VA's appreciation to Mrs. Janet Steiger, who is a witness here today, and who served as Chairman of the Commission, and to each of the Commission members and the Commission's Executive Director, Babette Polzer.

VA is in general agreement with the majority of the Commission's recommendations on the central issues addressed. Of particular significance are the regionalization of chapter 30 processing, course measurement and simplification of program administration, and standardization of veterans' education programs.

We support work study students receiving the Federal or applicable State hourly minimum wage, whichever is higher, removing the distinctions in attendance reporting requirements between degree and nondegree institutions, and modifying the criteria for determining waivers of the 2-year rule and the 85–15 rule for certain courses provided under contract with DOD, to include reservists training under chapter 106.

We would like to see the pilot program for vocational rehabilitation for certain pensioners made voluntary and we thank you for introducing that in our behalf.

We are opposed to that provision which would provide for the concurrent receipt of military retired pay and VA compensation. We don't support it chiefly for the reason that it would compensate retirees twice for the same service.

That concludes my testimony, Senator Matsunaga. I would be pleased to answer any questions you or other members of the committee may have.

[The prepared statement of Mr. Vogel appears on p. 89.]

Senator MATSUNAGA. Thank you very much, John. And before going into the meeting subject itself, I want to thank you for the extra effort you have exerted to help veterans of Hawaii. They really appreciate it very much.

Mr. VOGEL. Thank you, Senator.

Senator MATSUNAGA. And on page 9 of the testimony of the National Association of Veterans Program Administrators, it speaks to the importance of the finding of the Commission on page 158 of its report, that VA tends to emphasize quantity rather than quality in its work measurement system, and in its furnishing of services. Now, what efforts are you making to emphasize quality as well as quantity services to veterans at regional offices?

Mr. VOGEL. Mr. Chairman, every line manager, I think, expects employees to produce a quantity of services, but in a quality fashion. We've recently done a reassessment of our work measurement system. We have found, indeed, that the complexity of the laws that we administer requires a measure more of time to produce the quality product, that is, to make the determination so important to our veterans.

My view is that any work measurement system which would allow quantity to be rewarded and quality to be deficient is itself a deficient process. We believe that quality comes first. And if quality does come first in work measurement systems, the quantity follows behind it.

Mr. HORTON. Mr. Chairman, this summer we are having two training sessions for our claims people and for our authorization people. In addition, we have an initiative which will begin operating in February of 1990: an adjudication academy. These are the two important initiatives that we think will impact very dramatically on quality.

Senator MATSUNAGA. Thank you.

With regard to the new regional benefits delivery system for the chapter 30 MGIB, both the Commission and other witnesses today have recommended that it would be beneficial for educational institutions to have available to them a toll-free number so schools could call their regional processing center to resolve educational assistance inquiries, now, rather than having to make such inquiries through their VA regional office. What are views on this proposal?

Mr. VOGEL. Mr. Chairman, the chapter 30 processing system is what we call on-line. That means that when an action is taken at the processing center in St. Louis, and soon the centers in Buffalo, Atlanta, and Muskogee, that information is available at all of our regional offices through our computer system. We believe that the educational institutions and beneficiaries can obtain information, including the resolution of problems they might have, by contacting the regional office that serves them where they reside, whether that be in Honolulu, Seattle, or St. Petersburg. We think that another toll-free system would be redundant to our ability to provide information and assistance in the processing of Montgomery GI Bill active duty cases.

Senator MATSUNAGA. Could you submit for the record the estimated one time and recurring costs of operating such toll-free lines?

Mr. VOGEL. I would be pleased to, Mr. Chairman.

[Subsequently, the Department of Veterans Affairs furnished the following information:]

We estimate that the average onetime cost for installation of a toll-free line is approximately $100, but the charge varies according to the type of line and the site location.

The fiscal year 1988 costs for operating our existing toll-free telephone service programs were approximately $5,142,337, broken down as follows:

VARO Veterans Services Divisions (estimated)	$4,497,079
Former Prisoners-of-War Hotline	4,870
Philadelphia Insurance Center	400,611
Centralized Accounts Receivable	221,607
Education Loans	18,170

Senator MATSUNAGA. Page 12 of Chairman Steiger's testimony, which we will hear later, and page 3 of the written testimony of the Chairman of the VA Advisory Committee on Education, both state that the Computer Matching and Privacy Protection Act of 1988 will have a significant and detrimental impact on VA's administration of educational assistance programs, particularly under the chapter 106 Reserve program. Are you in agreement with the Commission on this issue?

Mr. VOGEL. I am indeed, Mr. Chairman. We're very concerned about the adverse impact that might have on our ability to serve veterans, both in the chapter 106 program and in the administration of the pension and compensation programs, where we receive and exchange information from the military services to assure that benefits are adjusted and paid in a timely fashion.

Senator MATSUNAGA. Would it be helpful if VA were exempted legislatively from the law?

Mr. VOGEL. Mr. Chairman, we have been in contact with the Department of Defense on it. The Department of Defense's view is that they are not covered by the Act. Our General Counsel needs to meet with them and resolve this, because our position is that we are, in fact, covered. I learned just before I came to this hearing that the OMB has asked, on behalf of the agency, to delay the implementation of what would essentially be a prohibition on data exchanges until the end of this calendar year so we could work out those differences. If, in fact, the agency would need legislation to relieve it of an impediment to our processing systems, we would ask that you assist in that.

Senator MATSUNAGA. When can we expect a decision on that?

Mr. VOGEL. I do believe we'll get the extension until the end of the calendar year. That was just being made as we speak now. If we don't get that extension, we will be obligated within about 7 days to publish an advance notice in the Federal Register. We mean to implement the Act on July 19. From that point on we would be in major difficulty. I should have a very good read on that by early next week and I will share that with the staff of the committee.

Senator MATSUNAGA. Fine.

[Subsequently, the Department of Veterans' Affairs furnished the following information:]

The Office of Management and Budget (OMB), as required by the Computer Matching and Privacy Protection Act of 1988 (Act), after the testimony in this matter, issued guidance for all Federal agencies to follow in implementing the Act. 54 Fed. Reg. 25818 (1989). This guidance specifically provides that the Department's computer matches with the uniformed services for the purpose of ensuring that individuals receiving compensation, pension, or dependency and indemnity compensation from VA are not also receiving retired pay or Survivors Benefit Plan payments from the uniformed services (except to the extent that those payments exceed the amount VA benefits paid) are matches exempted from the Act's coverage. Consequently, the Act will have no impact on these programs.

The issue of whether the Act applies to the data exchanges between VA and the Department of Defense in the administration of education benefits programs is under review. If it is determined that the Act is not applicable, it will have no impact. VA contemplates discussing with OMB whether the Act extends to the computer data exchanges in the educational assistance programs.

The President has signed legislation extending the effective date of the Act until January 1, 1990, for covered computer matches operational as of June 1, 1989, provided certain requirements are met. This extension will enable the Department to continue operating its matching programs while determining the specific matches to which the Act applies, and if applicable, to ensure that the matches comply with the Act or seek legislative relief from the Act.

Senator **Matsunaga**. I see that Senator Rockefeller has dutifully come to the hearing, and unless you wish to make an opening statement of some kind, we'll go ahead with the questions.

Senator **Rockefeller**. I don't have any opening statement or questions at this particular point, Mr. Chairman. I would like to request your permission to be added as a cosponsor to the Veterans Educational Policy Improvements Act.

Senator **Matsunaga**. Without objection, it will be so ordered.

Now, John, would you submit for the record your analysis of the effect of this Act on the timeliness of processing on productivity and cost of administration, and on levels of overpayments for the chapter 106 program?

Mr. **Vogel**. Yes, Mr. Chairman, I would be pleased to.

[Subsequently, the Department of Veterans' Affairs furnished the following information:]

Implementation of the provisions of the Computer Matching and Privacy Protection Act of 1988 (Act), assuming it is determined to be applicable, will significantly impact both the Reserve (chapter 106) and Active (chapter 30) programs of the Montgomery GI Bill.

Implementation of the Act will require an additional 15 to 20 minutes in claim processing time on each potentially adverse information report which VA receives from DOD by computer match. VA currently receives about 72,000 such reports each year. This additional time equates to 27 full-time equivalent employees in the year following implementation. This will increase to 33 employees by fiscal year 1994, due to the increase in participation in the program.

A more significant impact will be on the timely processing of these claims. The Act, applied to these data exchanges, would require that an individual be afforded 30 days to disagree with the information received from the computer match prior to the Department's adverse action. Under current procedures in both the chapter 106 and chapter 30 programs, final action is taken on adverse information within 5 to 15 days of the receipt of that information. The requirements of the Act will add an additional 30 to 45 days to the time a final adverse action can be taken. This will significantly increase the time necessary to complete action on cases.

Increased costs of administration are estimated at $920,000 for the year following implementation. This will increase to $1.1 million per year by fiscal year 1994. The estimates include the additional personnel mentioned above and nonpayroll costs. The nonpayroll costs include extra mailing costs for notifications required by the Act and data processing changes that will be necessary in the first year of implementation. No estimate has been made on additional costs to DOD or to the claimants in complying with the Act.

Delaying adverse actions an additional 30 to 45 days means that many individuals will receive 1 or 2 additional payments to which they were not entitled. This will mean an increase in the amount of overpayments in the programs. Based on current levels of overpayments and average amounts of overpayments, the increase attributable to the Act is estimated at $1.5 million in the first year, increasing to $2 million per year in fiscal year 1994, without considering VA's recoupment rate for educational benefits programs.

These estimates are made without benefit of any experience under the Act. They are based upon data available from past experience adjusted for procedures and timeframes required by the Act. Actual experience may vary from the estimates in the amount of overpayments because current data collection in this area does not provide a reliable means of identifying cases that would have been affected by the Act.

Senator **Matsunaga**. And finally, could you please comment on the Commission's recommendation that if section 106 reservist students are made eligible for work study allowances, then work associated with administration of the chapter 106 program in connection with Guard and Reserve units should be added to the law as a permissible work study program. Would this be undue competition with VA's needs for work study student assistance?

Mr. VOGEL. No, Mr. Chairman, I don't believe it would be in competition with that.

Senator MATSUNAGA. Fine.

I note, John, that VA opposes my bill, S. 564, which would require an Assistant Secretary to review and assess the effects of policies, regulations, programs and activities of VA on minority veterans, and develop and implement policies facilitating access of such veterans to services and benefits provided by VA. One of VA's key concerns seems to be the assignment of line responsibilities to a staff officer. It seems to me that your basic objections to this legislation would be met if we were to strike the "implementation of policies" language from the bill and insert instead language requiring the Assistant Secretary "to coordinate and conduct oversight of the implementation of policies."

Now, would you agree that that would meet your basic objections?

Mr. VOGEL. Mr. Chairman, with the Department having just been created and with the assignment of equal employment opportunity functions to one or more of the Assistant Secretaries, Secretary Derwinski has the means to carry out an effective program of assuring that minority veterans are afforded access to VA benefits. I think what Senator Thurmond said is quite true, with the Department recently created, the function is covered. It is a little soon to come to a judgment that there is a deficiency in the Department's ability and commitment to provide minority veterans access to VA benefits programs.

Senator MATSUNAGA. Senator Thurmond, do you have any questions?

Senator THURMOND. We're glad to have you gentlemen here, and thank you for your appearance.

As you know, S. 563, which is identical to amendment No. 110 to S. 190, would allow concurrent receipt of VA disability compensation and military retirement pay with a smaller offset than under existing law. What type of budgetary impact would this legislation have in order to be enacted?

Mr. VOGEL. Senator Thurmond, we're trying to develop some cost on that. We'll have to work, it is pretty clear to me, with the Department of Defense. The information that we have available relates to a person who has waived some amount of retired pay, in whole or in part, to receive compensation. We don't know whether that is a total waiver or a partial one. We don't know whether the individual retired on longevity or on disability. And, we'll need to share information with the Department of Defense to come up with a cost estimate.

Senator THURMOND. You're making a study of that now?

Mr. VOGEL. Yes we are, sir, and we would be pleased to share that with you. I understand that the CBO recently provided an estimated cost. I haven't had a chance to see that as yet. But we mean to develop that for you.

Senator THURMOND. I see. And you'll report to us later on that, I guess?

Mr. VOGEL. Yes, sir.

Senator THURMOND. Although the courts have upheld the offset of disability pay, dollar for dollar of retirement pay, what are your thoughts on the fairness of this policy, which incidently has been a part of the law since 1891?

Mr. **Vogel**. We believe that the policy is basically a fair one. The payment of VA compensation and/or retired pay arises out of the same service. It is basically a fair doctrine which now has been in existence for 98 years, tested in the courts as to its constitutionality, and not found wanting.

Senator **Thurmond**. There are two schools of thought on this, of course, as you know. Some feel that their retirement pay is one that is earned, and that they ought to get that, of course, in any event. And then some feel that where there is a disability compensation, that because of illness and other things, they ought to get an additional amount. And, of course, there is another school of thought along with consensus of the law now.

Mr. **Vogel**. I think it is worth noting that an individual who is eligible for social security benefits or for civil service retirement must elect to receive a retirement benefit either on longevity or on disability, but never on both. Other Federal beneficiaries must make that choice just as veterans must with respect to military retirement and VA compensation.

Senator **Thurmond**. In other words, the present law is as concurrent with the other laws similar?

Mr. **Vogel**. Yes, sir.

Senator **Thurmond**. And in similar situations?

Mr. **Vogel**. Yes, they are, Senator.

Senator **Thurmond**. I want to ask you this question now about the minority veterans. We certainly want to see all of them taken care of, all the veterans. Do you believe that the needs of minority veterans are being adequately and appropriately addressed under the Department of Veterans' Affairs Act, which was enacted last year?

Mr. **Vogel**. Yes, I do, Senator Thurmond.

Senator **Thurmond**. Is that the reason you don't favor this bill that is being advocated now to make an Assistant Secretary responsible?

Mr. **Vogel**. Secretary Derwinski is establishing his leadership now. Indeed, relatively few of his top staff are aboard. He has articulated to the Department's leadership his commitment to the goal of assuring that minority veterans are provided full and equal access. He has assigned responsibility to the line officers, with oversight by an Assistant Secretary. We believe the function is covered. We ought to at least give it an opportunity to be tested over time before we attempt, by legislation, to mandate what those functions ought to be and how they ought to be performed.

Senator **Thurmond**. I understand their position at Veterans' Affairs is that the law passed last year is adequate and you can properly take care of the minorities under that, and there has been an Assistant Secretary who has been designated to do that already?

Mr. **Vogel**. Yes. An Assistant Secretary is assigned responsibilities for equal employment opportunity. An additional Assistant Secretary has responsibility for the coordination of other programs, not the least of which are female veterans, minority veterans, Native American veterans, and others. We believe we've got it covered.

Senator **Thurmond**. So you're doing now what this amendment would propose to do then?

Mr. **Vogel**. Yes, sir, that is our view.

Senator **Thurmond**. So the amendment is not necessary for that reason, is that correct?

Mr. **Vogel**. We don't believe it is, Senator Thurmond, no.

Senator **Thurmond**. I understand multiyear procurement of supplies and services has worked very well for the Department's health-care facilities, and I think it is an excellent way to extend this policy across the board at the Department. Do you have any statistics or other information regarding any savings that have been achieved through multiyear procurement.

Mr. **Vogel**. I don't have them with me, Senator Thurmond, but I would be pleased to provide at least a sample of what that looks like for the record.

Senator **Thurmond**. That will be fine. Thank you very much. That is all I have, Mr. Chairman. Thank you.

[Subsequently, the Department of Veterans' Affairs furnished the following information:]

The VA does not require VA procurement officials to compile statistics or other information on the cost savings which have been achieved through the use of multiyear contracting for the procurement of supplies and services for the Department's health care facilities. We believe that multiyear contracts will promote cost savings for the VA; however, it is too early to estimate these savings. To further the use of multiyear contracting, the VA has published guidance, in the form of regulations, 48 C.F.R. Chapter 8, Veterans Administration Acquisition Regulations (VAAR), Subpart 817.1, and VA Circular 005-89-2, January 23, 1989.

Senator **Matsunaga**. Thank you, Senator Thurmond.

Now, on the response to Senator Thurmond, relative to minority veterans. It is the law today, isn't it, that the Secretary of Veterans Affairs should assign one of these Assistant Secretaries to the question of service of minority veterans?

Mr. **Vogel**. That is correct, sir.

[Subsequently, the Department of Veterans Affairs furnished the following information:]

Technically, the law provides that equal opportunity functions will be among the duties assigned to the Assistant Secretaries. The Secretary has designated one Assistant Secretary responsible for liaison activities which will include issues concerning service and information to minority veterans.

Senator **Matsunaga**. So that we don't need to pass any new law relative to assignment of another Assistant Secretary to look after the special problems of minority veterans?

Mr. **Vogel**. That is correct, Mr. Chairman.

Senator **Matsunaga**. Well, the reason I keep bringing forth this issue is that in Hawaii, and in the Pacific, and among Native Americans, we have experienced a problem of minority veterans being completely disregarded in their needs. And not so much as the fault of VA, but because of the—well, shall I say, the custom or the policy among the Native Americans to shy away from asking for things. And unless we make the offer to help, they don't come forth to ask for the help they really need. And I think this will eventually go away, but right now we still have that problem of the customs that they have inherited from their parents and grandparents.

But I would like to make that clear in the record, that we need some—and Congress recognized that and we passed the law calling upon VA——

Senator **Thurmond**. I was just wondering, if it is not being implemented properly.

Senator **Matsunaga**. That is correct.

Senator **Thurmond**. Have you all made complaints about that to VA and asked them to correct it?

Senator **Matsunaga**. Yes, we have.

Senator **Thurmond**. I'm not saying that is not important because VA would want to know if the law is not being implemented right——

Mr. **Vogel**. Yes, sir.

Senator **Thurmond**. They would want to know if their people aren't implementing right, and if not, you certainly want to know it so you can correct the situation.

Mr. **Vogel**. I certainly will convey your expression of concern, Senator Matsunaga. I think that a word on your behalf to the Secretary, and his looking into it, would probably go a long way toward a resolution. We have a vigorous program of outreach to Native Americans, to minority veterans and to female veterans, and we would like to do more of that outreach. We have a legislative responsibility to do so. I think with that, and a better understanding, especially with respect to American citizens and veterans in Hawaii, that we can make the inroads you suggest need to be made.

Senator **Matsunaga**. Well, having served with your Secretary in the House of Representatives and being good friends with him, I have every faith in him. But I'm afraid that his successor may not be as understanding and sympathetic, and that is the reason I want to get it into the record.

Now, John, there has been concern expressed in some quarters that some legislation such as amendment No. 110 of S. 190, that is designed to eliminate or modify the offset between VA disability compensation and military retirement pay would seriously impact veterans programs. This concern has been used as an argument not to seek changes in the statutory offset given the severe budgetary crisis now afflicting VA. It is my understanding that almost all of the costs arising from the legislation would have to be paid by the Department of Defense, not VA.

Now, could you clarify for us once and for all out of which Federal department's budget would most of the cost of amendment No. 110, S. 190, or S. 563, be paid, DOD's or VA's?

Mr. **Vogel**. Mr. Chairman, I'm going to ask Mr. Hickman to respond to that, if I might.

Mr. **Hickman**. I would answer in two parts, Mr. Chairman. Of those currently receiving VA compensation, the expense would fall to DOD. One of our concerns is that, of course, there are almost a million retirees who are not on the VA rolls. They certainly could apply for the benefit and may be entitled, which would boost the cost for VA.

Senator **Matsunaga**. Just about how much would be paid by VA?

Mr. **Hickman**. We would be speculating just how many of those approximately one million would apply for VA compensation, and what the evaluation would be. So it would be mere speculation on our part, exactly what the cost would be.

But certainly there would be a cost associated with that.

Senator **Matsunaga**. Well, based on the present roll?

Mr. **Hickman**. On the present roll, the cost would be for DOD except for those who may apply because they could receive VA compensation as well as retirement pay.

Senator **Matsunaga**. Those who support the repeal of the statutory offset point out that the stricture against dual receipt is not uniformly observed throughout the Government. They compare the situation of the military retiree with that of a Federal retiree, who can receive both VA disability and civil service retirement, even though his retirement may be based in part on military service.

In your testimony you dispute the comparison, pointing out that a more apt analogy is that of the person eligible both for civil service retirement payments based on age, and length of service, and for civil service retirement payments based on disability—that is on page 32 of your written testimony.

Now, John, I don't think that you've quite addressed the point the supporters have made, which is that in the case of the Federal retiree, he is allowed to receive longevity pay based at least in part on military service, even though it is combined with Federal service, without any prejudice to his VA disability compensation. To my mind, the Federal retiree is indeed receiving longevity pay concurrently with disability pay based on the same period of service. Thus, it seems the military retirees are being treated inequitably vis-a-vis Federal retirees. Instead of dual receipt, we should be talking about a dual standard.

Now, my question is, since the civil servant's retirement may be based in part on his military service, would it not be logical in VA's own terms to require that person to offset a corresponding part of his retirement pay in order to receive disability compensation?

Mr. **Vogel**. There isn't, for the most part, any connection between the military service for which the military retirement pay is paid and the typical subsequent civil service for which they receive civilian retirement benefits. The same can't be said, however, about VA disability compensation and the military retirement pay, both of which arose out of the same period of service.

Mr. Hickman can you add to that? No?

Senator **Matsunaga**. Now, VA disability is awarded basically to compensate for personal anguish and loss of future earning capacity caused by service-related injury or disease. Military retirement is an entitlement based on longevity of service. Now, they have two completely different purposes.

In the case of a Korean soldier who has put in 22 years of service, am I correct in saying that he is eligible for and deserving of longevity retirement pay?

Mr. **Vogel**. Yes, he is, in excess of 20 years of service.

Senator **Matsunaga**. Well, OK, then, let us say that the soldier in question who is already eligible for, and deserving of longevity pay, is called to front line service during a war, and he is wounded.

At that point he is eligible for and deserving of a VA disability compensation, am I right?

Mr. **Vogel**. He is. That is correct, sir.

Senator **Matsunaga**. Then I must come to the conclusion that he deserves both, even the argument that they're based on the same period of service doesn't wash because this particular soldier, before he was wounded, had already put in enough years of service to be eligible for and deserving of retirement pay. Now, could you respond to this conclusion?

Mr. **Hickman**. I would respond that the individual, if he was disabled during service, certainly could elect between service disability pay and longevity pay if he had been there for 20 years. He would not be able to obtain both, he would only have a choice of one.

Senator **Matsunaga**. I think you missed the question. This is a case where the individual already earned his longevity pay, and then became wounded to become eligible for disability compensation.

Mr. **Hickman**. I understand——

Senator **Matsunaga**. It is not the same period of service that I'm talking about.

Mr. **Hickman**. Well, if we were talking about a period of service in which somebody did earn entitlement to longevity, and if as he was leaving service was adjudged to be disabled, he would have an opportunity to take his retirement pay as disability pay or as longevity pay.

Our point is the fact that the disability and longevity are occurring within the same time periods.

Senator **Matsunaga**. The staff has a question on that.

Mr. **Steinberg**. Let me try to follow up with this for both Mr. Vogel and Mr. Hickman. The question, it seems to me, is what policy is served given the example that Senator Matsunaga has raised, by denying to the individual his longevity retirement, which he earned through 22 years of service, or denying to him his disability compensation to which he became entitled as a result of his battlefield wound? Why in that situation, since they were earned and he became entitled to them by virtue of different periods of service, should the individual be placed in the position of having to choose between one or the other?

Mr. **Horton**. It seems to me that basically we're talking about a type of an election that is common. For example, a civil servant has workman's compensation entitlement for short periods of time while disabled. If he became permanently disabled and had the other entitlement criteria, he would make an election of disability retirement or regular retirement. The same is true in social security, where somebody can elect between disability social security or social security based on longevity. I think this is the principle that has been applied to VA compensation and retired pay.

Mr. **Steinberg**. Well, you're doing no more than asserting the result. The question in this situation is, what public policy is being served—in that situation when the individual in Senator Matsunaga's hypothetical would have elected longevity retirement at the conclusion of his service—by denying him disability compensation for something that occurred after the conclusion of the period of time by which he earned his longevity retirement? What policy is served by that?

Mr. **Horton**. He would have earned additional longevity retirement by the remaining years he spent in the service as well.

Mr. **Steinberg**. True, as to the period in which he became disabled, but that could be dealt with as well by an adjustment. Mr. Vogel has conceded that by virtue of his having reached the 20-year point, he became entitled to his longevity retirement at that point.

Mr. **Vogel**. I did indeed.

Mr. **Steinberg**. Thank you, Mr. Chairman. I think that we clarified that a bit.

Senator **Matsunaga**. Well, thank you very much, Jon. And in concluding, Senator Cranston has asked me to express his appreciation for the Department's general support of the S. 13 provision in section 112 regarding pension reduction during institutionalization as contrasted with the position taken by VA on that issue in your House testimony.

Any other questions?

[No response.]

Senator **Matsunaga**. If not, thank you very much, and I appreciate your coming today to testify.

Mr. **Vogel**. Thank you very much, Mr. Chairman.

Senator **Matsunaga**. We'll call upon our next witness, Gen. Donald Jones.

General **Jones**. Good afternoon, sir.

Senator **Matsunaga**. General Jones, we'll be happy to hear from you.

General Jones, incidentally, is the Deputy Assistant Secretary of Defense for Military Manpower and Personnel Policy of the Department of Defense.

General Jones, your statement will appear in the record in full, without objection, and I ask, as I did earlier that you summarize your statement in 5 minutes.

STATEMENT OF LT. GEN. DONALD W. JONES, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY MANPOWER AND PERSONNEL POLICY, DEPARTMENT OF DEFENSE

General **Jones**. Thank you, sir. It is my pleasure to appear before the committee and provide the views of the Department of Defense on S. 190 and S. 563.

S. 190 would permit the payment of military retired pay plus disability compensation from Veterans Affairs without a dollar-for-dollar waiver of retired pay, as is now required. S. 563, on the other hand, would limit the duplication of payment of retired pay and VA disability compensation based on a sliding scale depending on the VA-awarded compensation. For example, if the VA rates a veteran as 50-percent disabled, retired pay would be reduced by 50 percent of the VA disability compensation paid. Similar proportional limitations would be effective for those rated by VA from 10 percent to total disability.

Now, with regard to both bills, we believe they would create an inequitable situation and would benefit only those members who are retired for nondisability reasons and later receive a service-connected disability rating. Those who have been wounded or disabled in combat who could no longer perform their military duties and are retired with a disabling condition prior to 20 years of service are essentially excluded from the benefit proposed. The men and women who bore the brunt of service during wartime are excluded under that situation. Only those who retire after 20 years without disability at the time of retirement would be covered. And we don't believe that would be equitable.

Additionally, the matter of receiving both retired pay and VA compensation has a long history of public policy. Since 1891, the dual receipt of both pay items for the same period of service has been prohibited, notwithstanding various bills proposing removal of the bar of dual receipt. For these specific reasons, the Department does not support the dual payments proposal. It would set aside a prudent public policy set in law for 100 years, causing inequity for those who receive different types of disability pay, significantly increase the Federal deficit, and increase the DOD budget request. But since this proposal and the entire disability compensation have major ramifications, we believe they require significant study. Accordingly, we intend to conduct an indepth review of the entire disability program. And what Mr. Vogel talked about, Senator Matsunaga, I think we definitely have to do.

Such a review will take some time, and we were unable to complete it for consideration, I think, for this session of Congress, but I think it does need an indepth study to look at the entire disability system, because we're not saying it is perfect. It certainly isn't perfect, and I think we need to take a look at all aspects of it, sir.

Sir that concludes my statement. I would be willing to respond to any questions you have at this time, sir.

[The prepared statement of General Jones appears on p. 123.]

Senator MATSUNAGA. General Jones, in your testimony you mention nondisabled retirees and disabled retirees who waive their retirement pay. By the term nondisabled retirees, do you mean those retirees who are not retired on military disability?

General JONES. The nondisabled are members who achieved 20 years of active Federal service and qualified for retirement without having any disabling situation, sir.

Senator MATSUNAGA. And I just want to clarify this.

General JONES. Yes, sir.

Senator MATSUNAGA. For the benefit of those who may not be familiar with DOD terminology.

The chart on page 6 of your written testimony appears to show that enactment of S. 563, the inverse ratio bill, would result in between $1.1 billion and $1.7 billion in DOD outlays for fiscal year 1990. Now, is this a misreading on my part?

General JONES. Well, our actuaries made a best estimate based on the 400,000 people who are contributing, you know, waiving some part of their disability pay, or their retirement pay. I agree with Mr. John Vogel that we would have to go through and look at each individual case there, since it is a sliding scale, so we just based on the amount of time, we asked them to look at the number of veterans we have who are waiving that, what percent disability do they have, and to make some estimates. So, I certainly couldn't tell you that this is even close. We tried to make an estimate. So what we need to do is work with Mr. John Vogel, go through and review those 400,000 cases and see when it happened, see what aspect of the disability is called for, see what disability percentage they would receive on a sliding scale, and then come up with the numbers for you. So we need some more time to come up with those numbers, sir.

Senator **MATSUNAGA**. Fine.

I think in your chart here, you have budgetary increases from the enactment of S. 190 and S. 563.

General **JONES**. That is correct, sir.

Senator **MATSUNAGA**. If you left S. 563 out then it would be right.

General **JONES**. Probably so, yes, sir.

Senator **MATSUNAGA**. And since we have applied S. 563, I think——

General **JONES**. I think this was based on S. 190 before. I received a letter from Senator Cranston asking me to comment on S. 563 after the fact, so a little bit later, yes, sir.

Senator **MATSUNAGA**. General, it seems that there are inconsistencies between DOD's and CBO's estimate of the cost of eliminating or reducing the offset. You indicate that 290,000 retirees are waiving $762 million in retired pay in order to receive VA disability compensation. Common sense tells me that if Congress were to eliminate the offset completely, as S. 190 would do, the outlay costs to the Government would closely correspond to the amount waived. That is, $762 million. Yet, CBO puts the outlay cost at over $1 billion. Could you comment on this?

General **JONES**. I'm not sure I follow your question. Could you reiterate for me, please, make sure I'm tracking you on that, sir?

Senator **MATSUNAGA**. Well, perhaps I shall, inasmuch as it involved figures, I could submit it in writing, and you can respond in writing.

General **JONES**. All right, sir. I would be delighted to provide that, yes, sir.

Senator **MATSUNAGA**. Now, it is my understanding that the purpose of the Military Retirement Trust Fund is to allow for better planning of DOD expenditures. It does not have to be solvent in the way that private pension funds are because the Treasury is the ultimate guarantor of trust fund obligations. Now, the fund was established in order to require Congress and DOD to set aside funds to take care of the future retirement costs of service persons currently on active duty.

In other words, DOD each year must put into the trust fund enough budget authority to fund current and anticipated retirement costs. The actual amount that is set aside for the future retirement of current active duty soldiers is based, in part, on a certain actuarially derived percentage of basic pay. Is this an accurate description of the fund?

General **JONES**. Yes, sir. What we do, we have three sources of funds for the Retired Pay Account. We have the retirement fund you mentioned. We have the appropriation that DOD puts in each year based on this actuarially determined amount, which is about 51.2 percent, and then we have an unfunded liability for those people who entered active duty prior to 1985, so the Treasury Department has to put in a certain amount of money to take care of that. The third source of funds is from appropriated moneys that the Department invests in Government securities. So there are three sources of money, but your description of the retirement fund is correct, sir.

Senator MATSUNAGA. Thank you very much.

Now, General, the All-Volunteer Force is a reality today. And I'm proud to say that along with Congressman Steiger, we were the original sponsors of that All-Volunteer bill which created the All-Volunteer Force. Now, I think most people would agree that it has been a success.

General JONES. Very much so, sir.

Senator MATSUNAGA. But in order for the AVF to continue to be successful, one would think that the military must continue to offer inducements to recruitment and retention. In this respect, I would think that the military would welcome the elimination of the offset as a means of making the military a more attractive occupation. Could you comment on this?

General JONES. I would agree with you on the part that we need to offer those incentives to cause people to want to remain on active duty. I would tell you, and I know you had a part in the Montgomery GI Bill. It has been very, very successful to us, and it has been a great incentive for people to remain on active duty, and both to recruit. The funds that we're putting into enlistment bonuses are being very, very effective in causing people to want to remain on active duty. I have some of the same concerns that Mr. Vogel had on paying dual payment for similar service and conditions. There is no other retirement system that we know of that does this.

For example, the survivor benefit plan, when it kicks in for a person entering 62 for a survivor of a military member, it is reduced when social security kicks in. The same thing that he mentioned on workman's compensation, and the retirement for civil service people. Those are offsetting. So, our objection to it is that we would not want to pay dual compensation for the same type of service, or same period or condition of service, sir. So, it is a matter of money, but we're always looking for incentives to try to keep good people into the military. We have the best military service we've ever had, and thanks to this committee for their support. So, we've been very delighted. I would wholeheartedly support your comment on the All-Volunteer Force. It is working and we want to continue to see it work the way it has been in the past, sir.

Senator MATSUNAGA. Well, I'm glad to hear that. And I thank you ever so much for appearing before this committee.

General JONES. Thank you, sir.

Senator MATSUNAGA. And we have other questions, but I'll submit them to you in writing so that you may respond in writing for the record.

General JONES. We would be delighted to do that, and we will certainly work with Mr. John Vogel and with the veterans to provide the information you had asked earlier. We do provide a lot of that information in working closely with them. And we'll get a study group together and provide that for you, sir.

Senator MATSUNAGA. Our next witness is Ms. Janet Steiger, the Chairman of the Commission on Veterans' Education Policy. Ms. Steiger is accompanied this afternoon by the Commission's Executive Director, Ms. Babette Polzer, and by Commission member, Ms. Bertie Rowland.

Well, I welcome all three of you. Chairman Steiger, I know you had a commitment at the White House this afternoon, and I greatly appreciate your breaking away to testify before our committee. I think your opportunities to go to the White House are much greater than opportunities to testify before this committee, but I still appreciate it.

On a very personal level I want to tell you that I had the pleasure of serving in the U.S. House of Representatives with your late husband, Bill. And he was an outstanding Member of Congress.

Ms. STEIGER. Thank you.

Senator MATSUNAGA. And as I earlier mentioned, he and I were the coauthors of the All-Volunteer Force.

Ms. STEIGER. One of his proudest accomplishments, Senator.

Senator MATSUNAGA. I want to echo Chairman Cranston's remarks of about an hour ago. You have done an outstanding job with the Commission at considerable personal sacrifice, and I want to thank you for your efforts and congratulate you for a fine work product. Babette, this is old home week for you, in that you served in such an outstanding manner on the staff of this committee for 12 years.

Ms. POLZER. Thank you.

Senator MATSUNAGA. I remember your excellent work on the New GI Bill. It is good to have you back with us.

Ms. POLZER. Thank you.

Senator MATSUNAGA. Chairman Steiger, will you kindly proceed with your statement?

STATEMENT OF JANET D. STEIGER, CHAIRMAN, COMMISSION TO ASSESS VETERANS' EDUCATION POLICY, ACCOMPANIED BY BABETTE POLZER, EXECUTIVE DIRECTOR; AND BERTIE ROWLAND, MEMBER

Ms. STEIGER. Yes, Mr. Chairman, I've submitted the full statement for the record, and with your permission we'll summarize it very briefly here this afternoon.

It is an honor, Mr. Chairman, to be here, as it has been an honor and a fascinating experience to serve as chairman of the Commission to Assess Veterans' Education Policy. The credit belongs to the outstanding members of my Commission, such as Bertie Rowland, and to our one woman band, as we call her, Babette, who has done such superb work for us.

As the committee is aware, the Commission to Assess Veterans' Education Policy was charged with the responsibility of making recommendations on matters relating to improvements in VA education programs. We submitted our first report on August 29 of 1988. On April 27 the Department submitted its response. The Commission is now preparing its final report which is due on July 27 and which, we are happy to tell you, will be filed in a timely fashion. We met on May 22 to consider the Department's response and our reply.

I am particularly happy for the opportunity to express my gratitude to all of those who participated in the Commission's activities and contributed to making our mission as successful as it has been. We are delighted that even prior to the final report of the Commission, legislation has resulted and is being introduced by this committee.

The Department of Veterans Affairs deserves a great deal of credit, Mr. Chairman. The support and cooperation the Commission have enjoyed from the Department has never been less than outstanding. Beyond that, we feel that the latitude, the flexibility and the foresight that the Department has exhibited throughout is demonstrated in its April response and in its testimony today.

Likewise, staff members of this committee, particularly Darryl Kehrer, Chris Yoder, and Mike Cuddy, were extremely helpful. We thank you for making their services available to us. Their participation added greatly to our deliberations.

Turning to S. 1092, I note that the Commission's recommendations support its enactment. We also support continued administrative actions to carry out other recommendations that don't necessarily require legislation. We realize that a number of our recommendations are related primarily to appropriations and recognize the very difficult funding situation in which VA so often finds itself. The Commission, nonetheless, urges the Department, this committee, others in Congress, and the veterans community to continue to support adequate funding for the Department, as well as aggressive administrative actions.

Comments on specific provisions of S. 1092 are set forth in some detail in my statement. I will highlight only a few points.

The rewriting of title 38 was an issue of some discussion at our May 22 meeting. In our final report we will reemphasize the need for a rewrite and point out that this is not a responsibility that rests solely with VA. Indeed, the Congress has the major role as the ultimate source of legislation, and perhaps it would be possible that the Veterans' Affairs Committees in the House and Senate could take the lead in at least developing a first draft of the rewrite. We know this isn't an easy task. We know it is not lightly undertaken. But we believe it most important that the patchwork pattern of veterans education law be rewoven to provide for better organization, clarity, readability and understanding by the public who must exist under its rules, and who benefit so greatly from it.

With respect to eliminating the limit on the number of changes of program a veteran or eligible person may have, I note that this is one of the few areas in which VA and the Commission continue to be in disagreement. The Commission stands behind its recommendations which support enactment of legislation along the lines set forth in S. 1092.

Basically, our recommendation is rooted in the belief that the fewer times VA is called upon to make a judgmental decision, the better it is for all concerned. The provision is antiquated, Mr. Chairman, a discriminatory restriction, and it can be safety eliminated.

With respect to measurement, the Commission is greatly encouraged by VA's response as set forth in its report. The Department has taken a positive and a progressive posture on this issue. It deserves to be congratulated. In our reply, we will encourage VA to pursue actively and seriously the study it has proposed on the measurement issue and we will endorse its objectives. We will urge, however, that they not wait until a final report is issued to address this issue and that a firm timetable and a protocol for the study be established now. Indeed, it may be appropriate for legislation to be introduced along the lines envisioned by the Department's response to facilitate the full consideration of this proposal and a complete debate on its merits within the education community.

There are several new issues and concerns introduced at our May 22 meeting, and they will be discussed in our final report. They include the rate of GI bill benefits for individuals on active duty; enrollment in chapter 30 as a retention tool; fee-basis medical care for chapter 31; accreditation as a threshold for approval and the effect of the Computer Matching and Privacy Protection Act, which you mentioned earlier.

My prepared statement provides more detail on all of these matters. This concludes my testimony, Mr. Chairman. We're happy to attempt to respond to any questions.

[The prepared statement of Ms. Steiger appears on p. 130.]

Senator **Matsunaga**. Thank you very much, Chairman Steiger. Your testimony submitted in writing will appear in the record as though presented in full.

Ms. **Steiger**. Thank you, sir.

Senator **Matsunaga**. Now, I have a few questions I would like to address to you and your colleagues.

On page 3 of your written statement, you suggest that if individuals training under chapters 35 and 106 were made eligible for VA's work study program, the list of authorized activities for work study students should be expanded to include by specific reference work associated with various Guard and Reserve units that involves administration of the chapter 106 program. Now, Senator Cranston has advised me that he believes this proposal makes sense, and we thank you for your offering it for our consideration now rather than waiting until the Commission's final report is issued later this summer.

Ms. **Steiger**. Mr. Chairman, we think there are some very good opportunities, both for assisting in the administration of chapter 106, as well as assisting the student. We thank you for taking it into consideration. We thought it was a timely issue to bring up while you are writing this particular legislation. We think it could have some real merit.

Senator **Matsunaga**. Thank you.

Now, on page 6 of your written testimony, you state that the proposed elimination of the limit on changes of program a veteran or eligible person may have is one of the few areas in which the Department and the Commission continue to be in disagreement. Would you take a moment to explain to the committee the Commission's recommendation, why the Commission made it, and your response to VA's concerns that acceptance of your recommendation will cause any abuses of the GI bill.

Ms. STEIGER. Yes, Mr. Chairman. The Commission initially considered not making any change in this provision, but we were educated by the field. Field VA officials felt strongly, the ones that communicated with us, that this limitation should be eliminated. They disliked being in the position of having to deny a veteran use of his benefits based on this arbitrary determination. As a practical matter, almost any good adjudicator can turn virtually any change of program into a nonchange with a bit of creativity.

In addition, there were only roughly 3 percent of all GI bill trainees in 1988 who got above the level of change allowed. Under the current law the first optional change is permitted regardless of whether the new program is suitable to the interest and the abilities of the veteran. We feel we're in a new era with the Montgomery GI Bill. After all, the veteran has paid a portion of this great opportunity. He is going to be an older learner. He is going to be, we think, a more responsible learner than perhaps even the general trend of those in education. We feel that the potential for abuse is far less than the potential for discrimination. As long as I start out saying I can get a law degree, presuming I could do that in 36 months of entitlement, I can change from a BA to a law degree. But if I say I want a BA degree, a change of program would be involved in going for a law degree.

It is an encrusted limitation we think one that is discriminatory. We would stress that the Commission envisions up-front counseling and counseling at the time of a change of program. We think this is essential and important to responsible use of the program planning. And, of course, the bar on recreation and vocational changes courses would remain in place. We think the GI bill is mature enough and the veteran is mature enough to afford this relaxation of limitations on program change.

Senator MATSUNAGA. Thank you very much.

Now, on page 6 of the written statement of Dr. John Davis of North Carolina, he proposes that accredited colleges, which offer both noncollege degree and institution of higher learning types of courses be allowed to measure and certify both types of courses on a credit-hour basis. Would you please review this proposal and submit for the record your recommendations on it?

Ms. STEIGER. We would be most happy to do so, Mr. Chairman. Measurement is a very complex area. We sympathize with the Department and with all those who struggle with it. We would be very happy to give you our views on this proposal.

[Subsequently, Ms. Steiger furnished the information which appears on p. 142.]

Senator MATSUNAGA. Well, Madam Chairman, it has been a pleasure having you with us today. And in addition, the committee looks forward to receiving your final report. Thank you very much.

Ms. STEIGER. Again, it has been an honor, Mr. Chairman. Thank you.

[The report of the Commission to Assess Veterans' Education Policy appears on p. 253.]

Senator MATSUNAGA. Now, witnesses on our next panel are Mr. Richard Christian, Deputy Director of the National Veterans Affairs and Rehabilitation Commission of The American Legion; Mr. James Magill, Director of the National Legislative Service of the

Veterans of Foreign Wars; Mr. David W. Gorman, Assistant National Legislative Director for Medical Affairs, Disabled American Veterans; Mr. John Bollinger, Associate Legislative Director of the Paralyzed Veterans of America; and Mr. Stephen Wolonsky, President of the Uniformed Services Disabled Veterans.

I would like to thank each and every one of you for joining us this afternoon, and being so patient in awaiting your turn to testify. Each of your prepared statements will go into the record in full, and we ask that you summarize your remarks.

Mr. Christian, will you proceed with your statement?

STATEMENT OF RICHARD S. CHRISTIAN, DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. CHRISTIAN. Mr. Chairman, we appreciate the opportunity to offer The American Legion's views on several proposals relating to veterans services scheduled for consideration at today's hearing. I will summarize the issues of major concern to The American Legion, which are contained in our written statement.

Mr. Chairman, we commend you for holding this timely hearing to consider legislation providing cost-of-living adjustments in both veterans' disability and survivor's dependency and indemnity compensation. The American Legion is strongly supportive of annual adjustments in disability and death benefits to allow those entitled to such benefits to keep pace with increasing costs of goods and services.

The American Legion is also supportive of the improvements to make it easier for hospitalized veterans to meet their ongoing financial obligations during periods of extended hospitalization.

While section 113 of the proposed legislation would amend section 2014(b) of title 38, to extend the delimiting date for Veterans Readjustment Appointment Authority to December 31, 1991, we believe that the VRA authority should not have a delimiting date, but rather should be made permanent.

The American Legion has reviewed the recommendations of the Commission on the Veterans Education Policy report issued August 29, 1988 together with the VA interim report and the legislative proposals offered by S. 1092 implementing certain of the Commission's recommendations. We have submitted in our written statement several comments detailing our views on the various recommendations, as well as the provisions of S. 1092. These would, in our view, generally serve to improve the current Veterans' Educational Assistance Program.

Mr. Chairman, with respect to S. 563, which would permit certain service-connected veterans who are retired members of the armed services to receive disability compensation concurrent with military retired pay with certain restrictions, the delegates to the 70th National Convention of The American Legion adopted a resolution in continuing support of legislative efforts to remove a long inequity in the law.

Military retirees are the only Federal employees who are barred from receiving their full military retirement together with compensation for disability incurred as a result of military service. S. 563

limits the concurrent receipt of these benefits by retired personnel who are rated less than totally disabled by VA for their service-connected disability. Other career Federal employees make no such sacrifice. It is the military retiree who is unfortunate enough to have incurred service-connected injuries or chronic diseases who cannot receive the full benefit intended by a VA disability compensation.

While S. 563 would not fully satisfy the intent of our Resolution, it would, in the view of The American Legion, represent a positive step in the direction of eliminating the inequity of the current law and we would not oppose its passage.

Mr. Chairman, that concludes my summary.

[The prepared statement of Mr. Christian appears on p. 145.]

Senator MATSUNAGA. Thank you very much.

We will now hear from Mr. Magill.

STATEMENT OF JAMES N. MAGILL, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. MAGILL. Thank you, sir, for the opportunity to appear before this committee to present the views of the Veterans of Foreign Wars with respect to the various veterans' education and benefits legislation before us today. Inasmuch as you do have a copy of our statement detailing our positions on the bills before us, as requested, I will be brief in my remarks.

Title I of S. 13 would provide a cost-of-living adjustment in the rates of disability compensation and DIC compensation. The bill would also provide a 13.8 percent COLA for chapters 31 and 35 educational programs. The VFW certainly does support these increases.

S. 13 would also provide that monthly pension payments to hospitalized veterans could not be reduced until the veteran is hospitalized for 8 months. The bill also raises the limit on the reduced payment from $60 to $105. While the VFW has no objection to this provision, we would prefer to see the reduction totally eliminated.

The VFW also supports the extension of the VRA. But again, we would recommend this highly successful program be made permanent.

S. 564 would provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of members of minority groups. While we believe that no distinctions should be made between veterans as to their ethnic backgrounds, we also acknowledge that in certain circumstances, such situations do exist. Inasmuch as we have no resolution addressing this issue, we will not oppose the intent of the bill and we will defer to the wisdom of the Congress as to the necessity of its enactment. We do not, however, support increasing the number of Assistant Secretaries, and you did make that point previously that that would be the case at this time.

The VFW certainly supports the provisions of S. 1092. However, we have reservations with the provision addressing eliminating the difference in attendance requirements for degree and nondegree training, and repealing the limit on the number of times a veteran may change an educational program.

With respect to the provision allowing student self-verification, we oppose this provision because we believe the verification process should be officially rendered from the school.

The next bill, S. 1003, again enjoys the general support of the VFW. We would, however, recommend that the general equivalency diploma, the GED, be accepted as eligibility for the Montgomery GI Bill. We also have no objection to establishing a 2-week period for a recruit to declare their intent with respect to participating in the Montgomery GI Bill. We do not support eliminating an advance payment to those enrolled in a work study program, or subsistence allowances.

The final bill, S. 563, was introduced by you. This bill would amend title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a percentage reduction in the amount of retired pay. VFW has long supported legislation that would eliminate the present dollar-for-dollar offset of military retired pay when the retiree is also in receipt of VA disability compensation. Proposed legislation, as you know, to correct this inequity is now pending in both chambers.

As you will note, in my statement, we detailed our position on this issue. In short, while the VFW commends you for introducing S. 563, the VFW is mandated by resolution to seek the total repeal of the dollar-for-dollar offset. We look forward to working with you and the entire committee in resolving this long overdue inequity. This concludes my statement, and I'll be happy to respond to any questions you may have.

[The prepared statement of Mr. Magill appears on p. 167.]

Senator **Matsunaga**. Thank you very much, Mr. Magill. We appreciate your support of the bills introduced before the committee now.

And our next witness is Mr. David W. Gorman, Assistant National Legislative Director for Medical Affairs, Disabled American Veterans.

Mr. Gorman.

STATEMENT OF DAVID W. GORMAN, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR FOR MEDICAL AFFAIRS, DISABLED AMERICAN VETERANS

Mr. **Gorman**. Thank you, Mr. Chairman. While I have the chance I would like to take this opportunity to thank Chairman Cranston, as well as yourself, as a cosponsor of S. 13 for its introduction, and the many, many beneficial provisions that are in that legislation that are going to affect disabled veterans.

Section 101 of S. 13 would direct the Secretary of Veterans Affairs to increase the basic rates of service-connected disability and death compensation benefits, as well as the dependency allowances and, with but one exception, the statutory awards which apply to these two programs. Also, upwardly adjusted would be the DVA's annual clothing allowance award.

I do wish to express the DAV's appreciation for the provision in S. 13 which requires that in the computation of increased rates, amounts of 50 percent or more shall be rounded up to the next higher dollar.

Mr. Chairman, I also want to make special note of the fact that in its provisions, S. 13 does not propose to increase the K award, presently $63 per month paid in addition to the basic rates of compensation for certain veterans who have incurred a service-connected loss or loss of use of a single extremity or certain other body organs or functions. We ask the committee to include the K award in any compensation bill that it may recommend to the floor of the Senate.

With that concern noted, Mr. Chairman, the DAV does favorably support consideration of that section of S. 13.

Mr. Chairman, before leaving the subject of rate adjustments in the service-connected disability and death compensation programs, I would like to bring to your attention a goal recently approved by our organization's National Executive Committee, which calls for a substantial increase in the children's dependency allowances authorized by section 315 of title 38.

The congressional intent in providing these allowances is in recognition of the additional financial responsibilities associated with raising a child. However, Mr. Chairman, and certainly with full appreciation to the Congress and this committee for recognizing and responding to the child rearing costs borne by disabled veterans, the DAV respectfully points out that the $61 per month and the lesser amounts afforded to less than totally disabled veterans in no way approaches the full cost of raising a child today. According to information compiled by the U.S. Department of Agriculture, the cost of supporting one child, depending upon geographic location and age of the child, is, conservatively estimated to range between $5,000 and $8,000 per year.

Mr. Chairman, the dependency allowance adjustment called for in our NEC resolution is to raise the current $61 figure for the first child of a 100 percent totally disabled veteran to $400 with appropriate prorated amounts provided to veterans in the 30 percent through 90 percent disabling categories. We would respectfully ask the committee to give favorable consideration to providing such a substantial increase in the dependency allowance awards.

Sections 102 and 103 of S. 13 propose to provide a 13.8-percent upward adjustment in the educational subsistence allowances provided to service-connected disabled veterans and certain dependents and survivors of service-connected disabled veterans in training under chapter 31 and chapter 35. We commend you and the cosponsors of this measure for your insistence that the chapter 31 and chapter 35 programs remain viable for service-connected disabled veterans and their families. And we certainly support congressional approval of these rate adjustments.

Mr. Chairman, section 111 of S. 13 proposes to expand the annual clothing allowance award to include, for eligibility purposes, veterans with service-connected skin conditions whose medications soil or stain their clothing. The DAV has for some time been highly supportive of extending the clothing allowance to that category of veterans, and we therefore urge favorable action on this proposal.

Finally, section 113 of S. 13 proposes to extend the Veterans' Readjustment Appointment Authority for 2 years. We support the proposed extension, Mr. Chairman.

In your letter of invitation to testify at today's hearing, you requested our views on legislation relating to the issue of concurrent receipt of military retirement pay and disability compensation benefits. Recognizing that the concurrent receipt of disability compensation and military disability retirement pay would be a duplication of Federal benefits, our National Convention delegates have supported the concurrent receipt of compensation benefits and military longevity retirement pay.

We recognize the inequity in current law which requires longevity retired military personnel to, in effect, pay for compensation benefits out of their own military retirement pay. Your bill, Senator, would address this inequity in our opinion. Though the measure will not authorize full concurrent receipt of both military longevity retirement pay and disability compensation benefits, it would allow military personnel who are retired based on age, or length of service, to receive both veterans' compensation and a greater portion of their military retired pay, such portion being based upon a percentage of the level of the service-connected disability.

We feel this is an appropriate remedy which partially addresses the inequity contained in current law, and we urge favorable consideration of this measure.

That concludes my summary, Mr. Chairman. I'll be glad to answer any questions.

[The prepared statement of Mr. Gorman appears on p. 177.]

Senator MATSUNAGA. Thank you, Mr. Gorman. Your timing was perfect. And I wanted to thank you for your testimony.

And I would like to now call upon Mr. John Bollinger, Associate Legislative Director of the Paralyzed Veterans of America.

STATEMENT OF JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. BOLLINGER. Thank you very much, Mr. Chairman. On behalf of the members of PVA, I thank you for this opportunity for us to testify today.

My written statement addresses all the provisions before us today, so I'll limit my comments to just several of those provisions which affect disabled, especially severely disabled, veterans and several of the education provisions that have been introduced.

First of all, we're very grateful for the proposals concerning the compensation and DIC COLA's. As we have in the past, we oppose the administration's proposal to index such COLA's to the Consumer Price Index.

Concerning the vocational rehabilitation subsistence allowance, your proposal to increase these benefits by 13.8 percent represents, we believe, a very realistic appreciation for the enormous increase in costs associated with a formal education over the past 5 years. Restoring disabled veterans to a status of economically productive taxpaying workers represents an excellent investment of Government expenditures.

In many cases inadequate subsistence allowance represents the difference between a trouble-free education, and one besieged by setbacks. This cost-of-living adjustment that you've proposed will go a long way in ensuring that severely disabled veterans will have every opportunity to successfully complete their training.

We're extremely grateful for the inclusion of section 112 of S. 13 concerning pension payments for hospitalized veterans. I also want to say that we're delighted that the Department of Veterans Affairs does not oppose your provision. Certainly, the last thing that a long term hospitalized pension recipient needs is a reduction in income. For the most part these individuals have secured living arrangements either through home ownership or subsidized housing, or rental. Whatever, the financial effect of a reduction in pension can certainly be devastating.

We're encouraged that the House of Representatives has introduced similar legislation regarding the pension reduction. Like our friends at VFW, we do prefer that the entire reduction be eliminated.

Concerning veterans' education policy, we're in agreement with the vast majority of the recommendations made by the Commission and those provisions contained in Senator Cranston's education bill, S. 1092. As I've discussed with committee staff, we do have some concern with section 7 of this bill, which provides the Secretary with the authority to require monthly self-certification of enrollment for all VA education programs. We're concerned that the number of certifications flowing into regional offices might very well be staggering. The chance of an individual certification being lost, actually causing benefits to be withheld, will rise proportionately. Instead of veterans being able to rely on their checks at the first of the month, we believe delays will result and checks will begin hitting subsequent pay cycles during the course of the month. We're also afraid that there may very well be duplication of certifications if monthly certifications are required.

Regarding your bill, Senator, to include responsibility for monitoring and promoting minority group issues, we certainly support the intent of this bill. We believe the Department's policymaking process should include a special concern for the unique problems that minority groups may have. We believe that the amendment that you've suggested today makes the bill more attractive. Our only concerns would be the possibility of duplication of certain functions already assigned by the Secretary. And we also note that there are five groups of minorities that have been identified in your bill. We would perhaps suggest that the handicapped and elderly be given some consideration, too, as a minority group.

Regarding the offset of military retired pay and disability compensation, as in the past, we certainly support this legislation. Our principal concern has always been the costs involved. Our support has been based on our assumption that the Department of Defense would be footing the majority, if not all, of the costs of this provision, and that existing VA programs would not be affected by the bill.

Thanks very much, Mr. Chairman, that concludes my testimony.

[The prepared statement of Mr. Bollinger appears on p. 192.]

Senator **Matsunaga**. Thank you very much, Mr. Bollinger. Our final witness of this panel is Mr. Stephen Wolonsky, President of the Uniformed Services Disabled Veterans.

Mr. Wolonsky.

STATEMENT OF STEPHEN WOLONSKY, PRESIDENT, UNIFORMED SERVICES DISABLED RETIREES

Mr. **Wolonsky**. Mr. Chairman, in April of 1988 the Uniformed Services Disabled Retirees testified before the House Veterans' Affairs Subcommittee on H.R. 303, to eliminate the offset between military retirement pay and VA disability compensation. This was the first time that a hearing had been held on the offset issue to explore the hardships it creates for disabled career military, and to study the true costs associated with eliminating the offset.

At that hearing, USDR made the following statement:

> We ask that you, members of the Veterans' Affairs Committee, remain open to our pleas for consideration, listen to our experiences and attempt to work with us toward a solution we can all support in enacting H.R. 303 in some measure.

We support and urge the committee to enact amendment No. 110 because to do so upholds the principles USDR fought so hard to establish in the Absher case. The courts firmly placed the issue before the Congress, stating that it imposed the economy measure only on the career military and it alone has the authority to change it.

Enactment of amendment No. 110 would recognize that military disabled retirees should receive some payment for their disabilities which is not deducted from their earned retirement. It also establishes the rights of retired disabled military to receive a separate payment for their injuries. In the cases of many enlisted retirees, receiving both retirement pay and a disability payment is the difference between subsistence and an income above the poverty level.

One of our members retired in 1963 as an E-5 with $125 a month retirement pay. Today his retirement is about $300, but he is 50-percent disabled, so his VA disability of $400 a month wipes out his retirement pay. He cannot work at another job to supplement his income and if he could receive both amounts, $300 retirement and $400 VA disability, which amounts to $700 a month, the quality of his life would be greatly enhanced. Under amendment No. 110 as proposed, he would receive a reduction of his retirement pay by only 50 percent of his disability instead of the 100-percent offset required under current law. Amendment No. 110 would permit him to receive $100 of his retirement pay per month, for a total of $500 per month, which would improve his lifestyle.

There is one group of disabled retirees that amendment No. 110 may not treat adequately, and we would like to bring this to the committee's attention. Retirees in a 10- to 30-percent range of disability may receive so little retirement pay, which is also subject to income tax, that there is no real advantage being granted to them under the bill. We respectfully request that the committee consider this fact.

The administration has always attached a $2 billion cost figure to H.R. 303. Actual outlays will come from the Department of Defense budget and not from Veterans Affairs. DOD at last year's House hearing testified that $762 million is waived in retirement pay annually, representing the real costs of H.R. 303. Payments will come from the Military Trust Fund. Accrual accounting methods require the DOD to make budget authority contributions to the fund for active duty military who will retire and be disabled in the future. Although this is an intergovernmental transfer of funds, it increases the costs of the bill to DOD. We recommend that the committee request that DOD adjust its formula for these contributions over a longer time frame to reduce costs.

The committee is faced with favorably considering a bill that is not $2 billion nor $762 million, but approximately $200 million per year from the DOD budget. This is a reasonable response that we believe the committee and the Congress should adopt. The actual cost of amendment No. 110 is lower than the CBO estimate of $200 million because the CBO did not consider or estimate the amounts returned to the Treasury by the payment of income tax on retirement pay. USDR suggests that the committee request this estimated return to the Treasury from CBO in considering the costs associated with amendment No. 110.

Fundamental fairness demands that the career military who become disabled be treated equally as employees in Government civil service or the private sector. If USDR members had careers in any other vocation, they could receive their retirement pay and VA disability. The Federal retiree may even base their retirement period upon military service time, so that the same service time is used as the basis for two different payments. The veteran who does not make service to his country his lifelong objective is treated better than the military retiree. Other than budget constraints, USDR finds this difficult to understand. We believe that the current costs of correcting our problem are reasonable in relationship to the Nation's responsibility to maintain its promise to the career military.

That concludes my statement.

[The prepared statement of Mr. Wolonsky appears on p. 223.]

Senator MATSUNAGA. Thank you very much, Mr. Wolonsky. And while I have the opportunity here I would like to thank you personally for your organization's stooping low to make me an honorary member of your organization.

Mr. WOLONSKY. It is an honor, sir.

Senator MATSUNAGA. Thank you very much.

And I would like to extend the appreciation and thanks of Senator Cranston for your appearance before this committee today.

And I have just a couple of questions for the panel. And I, too, of course, wish to join Senator Cranston in expressing my appreciation to all of your organizations for appearing before this committee to present your organizations' views, and I certainly appreciate the support you've given, especially to my specific bills before this hearing.

I want to stress to all of you, and Mr. Bollinger, from the PVA, in particular, that it is my firm belief that veterans' programs will not be cut to pay for any legislation to modify the dual compensation statutes. As one who is well aware of VA's serious fiscal situation, I would not be pursuing such legislation if such were to be the case.

Now, could you give me some real-life examples of the offset's adverse impact on retired disabled soldiers? Any one of you. We can go right down the line if you wish to answer.

Mr. **Christian**. First of all, Mr. Chairman, I think that some of those that were here today did not clearly understand that there is a distinct difference between military retired time after 20 years and receiving VA compensation for battle wounds. A soldier could have served 18 years active duty, and on the 19th year received a battle wound in combat. That is different and the circumstances are different. He was just unfortunate to happen to have been hit at that time. He must be compensated, he should be compensated. It has absolutely nothing to do with the 20 year service. And this has been happening for many years that the military retirees, all of them, are financing essentially out of their retired pay, the receipt of the VA compensation check.

Senator **Matsunaga**. Mr. Magill.

Mr. **Magill**. Yes, sir. I have to echo the same as Mr. Christian. I'm sure there are examples out there—we just heard of one from Mr. Wolonsky in his testimony. But the point is, the principle of the thing. These are two distinct, separate entities. They should not be associated with one another. They were earned or awarded separately. And whether a veteran is suffering a hardship or not, it is the principle, he has earned them.

Senator **Matsunaga**. Mr. Gorman.

Mr. **Gorman**. Mr. Chairman, your request for a real-life situation leaves me unable to respond at this particular time. But what I would like to do is try to go back and discuss your question with some of our staff and try to present to you at least one, if not more, real-life examples of what is happening because of this inequity.

The other thing I would like to mention, I don't think a finer example or a more poignant example of this situation can be raised other than what you raised with the panel from VA. It is quite clear that there was no consensus for the principle involved in your question. And that sort of strengthens, in my opinion anyway, the real inequity involved in this situation, and the need for this remedying legislation. But we will try to get back to you to comply with your request.

Senator **Matsunaga**. Thank you very much.

Mr. Bollinger.

Mr. **Bollinger**. Senator, I just want to say I appreciate your comment regarding your bill and existing VA programs. PVA certainly knows that you wouldn't pursue the legislation if it would grossly affect the Department's programs now, and we're pleased that you've emphasized this point.

Senator **Matsunaga**. Mr. Wolonsky.

Mr. **Wolonsky**. Mr. Chairman, you asked for a live example. I am one. I retired with 25 years' military service, was called back to active duty, and during that recall I became drastically disabled. I have to waive from my retirement pay, even after the first 25 years, I still have to waive dollar-for-dollar my retirement pay to receive VA compensation.

This is the question you asked Mr. Vogel, and this is an example of what happened. I had retired, and then they called me back.

Senator MATSUNAGA. That is a good example, a really good example.

Now, that concludes my questions. Oh, I have one more here. Now, would you say that retirees in the NCO or enlisted ranks are most adversely affected by the offset requirement and that many of them live at or below the poverty level?

Mr. WOLONSKY. Yes, Mr. Chairman, I would say the enlisted and the NCOs, presently your majority of the retirees are World War II or Korean veterans. These men and women grew up during the depression. Many of them are minorities. And they were denied a proper education. So when they entered the service, it was all they could do. They decided we'll make the military a career. They could not rise up in rank like others do, and upon reaching 20 years, they could only be say, E-5, many of them were E-4s. And their retirement pay is very low. And then being disabled with an improper education, low rank, they can't perform employment to supplement their retirement.

Senator MATSUNAGA. Mr. Bollinger.

Mr. BOLLINGER. Mr. Chairman, I agree. I think the offset does affect these individuals to a far greater degree than those of a higher pay grade.

Senator MATSUNAGA. Mr. Gorman.

Mr. GORMAN. I would likewise agree, Mr. Chairman, that it does affect the lower rank or enlisted veterans more so. I don't think I can adequately respond to the second part of your question about the level of the retirement pay and the poverty part of it, I believe. But I agree with the first part.

Senator MATSUNAGA. Mr. Magill.

Mr. MAGILL. Veterans of Foreign Wars also agrees with you on the NCO portion of your question. And I'm sorry, but I could not respond to the other part, because I really don't know what the financial situation is of those individuals.

Senator MATSUNAGA. Mr. Christian.

Mr. CHRISTIAN. Mr. Chairman, certainly those most hard hit by all this are the enlisted personnel and the noncommissioned officers. But the size of the families has a lot to do with this, and the location, in terms of where they're living impacts directly on that whole family. It is not just the veteran.

Senator MATSUNAGA. Well, thank you. Thank you very much, all of you, for taking time out of your busy day to be with us and to share with us your wisdom, and we do hope that as a consequence of your testimony and statements we'll be able to legislate wisely. Thank you very much.

Mr. GORMAN. Thank you.

Mr. CHRISTIAN. Thank you.

Mr. MAGILL. Thank you.

Mr. BOLLINGER. Thank you, Mr. Chairman.

Mr. WOLONSKY. Thank you.

Senator MATSUNAGA. The witnesses on our next panel are Ms. Bernell Dickinson, Director of Special Programs for the North Carolina Department of Community Colleges, representing the American Association of Community and Junior Colleges; Ms.

Lynn Denzin, President of the National Association of Veteran Program Administrators; and Col. Richard C. Kaufman, Assistant Director of Legislative Affairs of the Association of the United States Army.

Now, thank you all for taking time out of your busy day to be with us, and to wait so patiently to testify before the committee. And we would be happy to hear from you first, Ms. Dickinson. You may proceed now, and summarize your statement in 5 minutes as we have set the traffic signal. When you see yellow, it means go like hell. [Laughter.]

STATEMENT OF BERNELL C. DICKINSON, DIRECTOR, OFFICE OF SPECIAL PROGRAMS, NORTH CAROLINA DEPARTMENT OF COMMUNITY COLLEGES, ON BEHALF OF THE AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

Ms. DICKINSON. I will go, but being from the South, it won't be quite that fast. [Laughter.]

Thank you for the opportunity to be here. And before I make my remarks to be entered into the record, I would like to emphasize that the remarks that I make are directed toward the special interests of the community colleges across the country, and that other interests and concerns may necessarily be more prevalent in the 4-year and the senior institutions.

Mr. Chairman, thank you for this opportunity to speak. I also speak on behalf of the 58 institutions comprising the North Carolina Community College System.

The local community, junior, technical and vocational colleges and schools across the country from their inception have been significant and instrumental in providing convenient, low-cost, high quality, easy-access education and training to our veteran and military student populations. These institutions have a desirable mix of academic and occupational education and training which contributes to the readjustment of the veteran and to the upward mobility of the active-duty personnel and the National Guard and Reserve personnel.

The complexity of the education program regulations promulgated and administered by the Department of Veterans Affairs tends to create extraordinary monitoring difficulties for institutions, inequities in payments to similarly circumstanced students, and contributes to overpayment problems for the Department of Veterans Affairs by virtue of many technicalities which are obsolete or inappropriate to the kind of education delivery provided by our community college institutions.

In our view, the recommendations of the Commission to Assess Veterans' Education Policy are valid and workable and are due favorable consideration on the part of this committee and the Congress. We have been privileged to have presented testimony before the Commission and to be a member of the Department of Veterans Affairs Secretary's Education Assistance Advisory Committee, which has filed with the Secretary a reaction to the Commission's report.

This presenter concurs with the recommendation of the Commission and the intent and content of S. 1092. Our concerns rest with the implementation and regulatory provisions which will follow enactment. We respectfully request that during markup a provision be included which will create opportunity for representation from representative systems and/or community college institutions across the country to become involved in formulating proposed rules and regulations prior to the publication of proposed rules.

We endorse the contents of S. 1092 with the following reservations and recommendations.

First, on the abolition of the limit on the number of changes of program and the requirement of counseling to effect a change, we recommend that the counseling requirement be extended to qualified counselors resident in regionally accredited community college institutions. Institutions presently participating in the veterans and military education programs currently have at least one resident person who is designated as a certifying official for the institution. These persons participate in meeting and training sessions provided by the Department of Veterans' Affairs and/or the State Approving Agencies and have the resources of the counseling and advising staffs of their institutions available to them. This resource should be used to facilitate program choice and selection as they are professionals who will have already been involved with the student.

Our second concern the removal of the arbitrary attendance requirement distinctions between degree and nondegree training. The distinction between programs leading to educational objectives and those leading to vocational objectives has its genesis in the original GI bill. At that time there was a distinct difference. The advent of the community colleges introduced an effective blend of the academic and the occupational pursuits. Nationwide community colleges are either regionally accredited or are in pursuit of such accreditation. Accreditation standards acknowledge the academic hour of a 50-minute period with a 10-minute break without distinction between the academic or the occupational intent of particular students or programs. It is inequitable and inefficient to expect institutions to monitor similarly circumstanced veterans between those in pursuit of an academic degree and those in pursuit of an occupation. The legislation should also provide that, where a State's system is divided between academic and occupational institutions, that a credit standard be applied to the occupational institution which is commensurate with the State's standard for its degree-granting institutions. We respectfully request that during markup, this clarification be incorporated into the present bill, S. 1092. This will serve to eliminate the provisions in the law currently in effect for four different measurement criteria for pay purposes and will simplify monitoring, reporting, compliance reviews, and eliminate arbitrary overpayment charges created by the differences between standard and accepted practice for our community college institutions and the obsolete provisions of the current legislation and implementing regulations.

To summarize quickly, in our third concern the payment of benefits based on progress rather than rate of pursuit, we endorse the Commission's recommendation in this regard.

We would like to say further that we do endorse S. 13, S. 564, and we have one reservation about S. 1003, as it refers to the measurement phenomenon about which we were just speaking. The prepared statement elaborates on this.

Thank you for this opportunity.

[The prepared statement of Ms. Dickinson appears on p. 231.]

Senator MATSUNAGA. Thank you very much, Ms. Dickinson. Your statement will appear in full in the record as though presented in full.

And we will now be pleased to hear from you, Ms. Denzin.

STATEMENT OF LYNN DENZIN, PRESIDENT, NATIONAL ASSOCIATION OF VETERANS' PROGRAM ADMINISTRATORS

Ms. DENZIN. Good afternoon, Senator. On behalf of the National Association of Veterans' Program Administrators, I am very pleased to present our views on the recommendations made by the Commission, the response of the Department of Veterans Affairs, and appropriate legislation.

NAVPA would like to thank the members of the Commission for the time and effort spent in the preparation of their recommendations. We recognize and appreciate the long hours of discussion which were necessary to develop their proposals.

Three themes which seem to prevail in the recommendations relate to communication, simplification and standardization. Communication, among all those concerned with the delivery of educational benefits can be developed and enhanced by the suggestions of training sessions, publications, working with institutions which have shown some problem areas, the ombudsman concept, need for a toll-free number for chapter 30 processing centers, the need for more and improved counseling to explain benefits and individual responsibilities, and enhanced computer capabilities.

The simplification and standardization components go hand-in-hand in many of the proposals. Proposals which encompass these include modification of the 30-day rule, abolishing the limit on the number of changes of program, eliminating distinctions between noncollege degree and degree, eliminating the arbitrary distinctions and measurement of credit to allow payment of benefits based on credit hours earned, elimination of standard class sessions, approval of remedial classes and work study for all chapters, and the much needed rewriting of the chapters of title 38.

We support the VA response that some of these proposals will require further study, and in some cases formation of a task force. NAVPA supports the inclusion of educational institutions in discussions concerning the Commission proposals, and with representation on the task force which may be formed.

NAVPA would also like to commend the original cosponsors of S. 1092, Cranston, Matsunaga, Murkowski, and Rockefeller, as well as the committee staff. In our written testimony we have included mention of all proposals of S. 1092. We are particularly supportive of provisions which would replace the change of program limitation with a counseling requirement, the standardization of work study to include chapters 35 and 106, and the work study wage being paid at the higher of the State or Federal rate.

We encourage this committee to examine the lag time experienced in processing monthly self-certifications, to encourage the rewriting of title 38 into simplified form, to encourage the VA in support of an increase in the reporting fee paid to institutions, and to continue in the effort to standardize the benefits paid to all chapters of benefits.

We support the rate and allowance increases proposed in S. 13. With exception to the elimination of advanced pay for work study students, we support most proposals within S. 1003. Due to the high costs involved with the beginning of each term, we support the current policy of advanced pay for work study.

Thank you for this opportunity.

[The prepared statement of Ms. Denzin appears on p. 235.]

Senator **Matsunaga**. Thank you very much, Ms. Denzin. We certainly appreciate your testimony.

And we will now hear from Colonel Kaufman.

STATEMENT OF COL. RICHARD C. KAUFMAN, ASSISTANT DIRECTOR OF LEGISLATIVE AFFAIRS, ASSOCIATION OF THE UNITED STATES ARMY

Colonel **Kaufman**. Thank you, Senator.

First of all, I would like to compliment you on your endurance here today. I'm sure that most people wonder what I could add to this discussion. While we have covered just about everything I would like to briefly bring up several items.

Under S. 1003, we would like to see included the provisions that are found in H.R. 1358, which speak to graduate and vocational training for personnel who are in the Reserve components. We would like to have a similar provision considered by this committee.

I also want to say something about your legislation to permit nondisability retirement and disability compensation to be awarded concurrently. After hearing your discussion with Mr. Vogel, I certainly can't add anything to that. I think that you covered it very well, and you hit the nail on the head as far as our Association is concerned. If anything, we would like to see it be 100 percent. However, we think that that is a satisfactory compromise, and we compliment you on that.

The other items that I would like to quickly discuss are those items that deal with a cost-of-living allowance. It is certainly a hedge against inflation that we have to have for our veterans. I like the idea that does something about secondary school credentials. Give that responsibility to the Service Secretary. They know what they want. Let them run their own programs.

We would also like to see a veterans program that is structured so that a young man or woman who has served in the service and subsequently goes off to college is permitted to change programs. They should have that opportunity. We have counselors there for them and other students are allowed to do the same thing. We just should ensure that the fiscal responsibility, the oversight responsibility of the VA is assured.

Other than that, sir, the Association is very satisfied with all of the legislation here today, and I thank you very much for this opportunity.

[The prepared statement of Colonel Kaufman appears on p. 246.]

Senator **Matsunaga**. Thank you very much, Colonel Kaufman. And I thank all three of you for your testimony here today. And this is not on the program as scheduled, but I would like to ask Ms. Barbara Hollinshead of the Congressional Budget Office to, if she will, to please come forward to answer a few brief questions.

Thank you for agreeing to make the record a little more complete by your appearance and responses to questions. Now, we welcome you and are grateful for your presence here so late in the afternoon. Now, first, I want to note that we very much appreciate your preparing an informal cost estimate for the committee on amendment No. 110, and here are my questions.

Opponents of legislation to modify or repeal the offset often cite the budget authority figures rather than the outlay figures as a reason not to support such legislation. The estimates CBO has provided me for S. 190, S. 563, and amendment No. 110, generally show estimated budget authority costs approximately double that of estimated outlay costs. Now, could you explain in simple terms why budget authority figures are significantly larger than the outlay figures?

TESTIMONY OF BARBARA HOLLINSHEAD, ANALYST, CONGRESSIONAL BUDGET OFFICE

Ms. **Hollinshead**. Yes. I think the easiest way to understand it is that the budget authority, which goes into the Trust Fund, covers as you mentioned earlier, not only the increased retirement expenses of those who are on active duty service now, but also the added liability that this legislation would cause for those who are already retired. So even though the outlays to those who are already retired are, in the case of amendment 110 around $200 million, you also have to contribute to the fund now for the future retirement costs of active-duty service members. In order to do that adequately, we estimate that you also have to contribute close to $200 million or so. So you're paying for different groups of people.

Senator **Matsunaga**. Now, do the CBO estimates for amendment No. 110, which for fiscal year 1990 are $330 million in budget authority and $170 million in outlays, take into account returns to the Treasury from taxation of the additional amounts of retirement pay?

Ms. **Hollinshead**. No. The CBO's policy right now is not to take into account secondary effects of legislation, although this is under review. We now have a new director, and he may make a different decision about whether to include secondary effects on revenue in our cost estimates. So, as of now, we don't include these secondary effects, but the policy may change soon.

Senator **Matsunaga**. Now, the Joint Tax Committee has stated that returns over a 5-year period for a similar bill, S. 563, would be $100 million. Now, could you comment on this?

Ms. **Hollinshead**. I don't have any knowledge of how they came up with the estimate.

Senator **Matsunaga**. If we get a copy of that to you——

Ms. **Hollinshead**. People in our tax division could also advise you on that.

Senator MATSUNAGA. So, could you submit your comments in writing for us?

Ms. HOLLINSHEAD. Yes.

Senator MATSUNAGA. Now, how much of the total costs of amendment No. 110 would be the Department of Veterans Affairs cost?

Ms. HOLLINSHEAD. The costs that I showed in the informal estimate were added costs from the Trust Fund for Military Retirement in Function 600. We don't have any idea how much more the Department of Veterans Affairs would have to pay, because no one keeps good records on how many people that would affect. We find that most retirees forgo their military retirement in order to collect VA compensation, instead of the reverse, because of the different tax treatment of the two. So we feel that the informal estimate is a fairly good estimate of the additional cost to the government if the legislation were passed. We don't know for sure, because no one has systematically compared each active-duty and retired service member whom it might affect.

Senator MATSUNAGA. And a VA witness earlier this afternoon testified that there are a million retirees who might, as a result of amendment No. 110 elect to receive VA compensation. Are you aware of data that support that concern?

Ms. HOLLINSHEAD. I don't know.

Senator MATSUNAGA. OK.

Well, this concludes my questions—would you be willing to consult with the VA and submit to us——

Ms. HOLLINSHEAD. Sure. I have a colleague also, Nina Shepherd, who is more familiar with how the VA would be affected. I'm more familiar with military retirement. So, I'm sure between the two of us we can provide answers to your questions.

Senator MATSUNAGA. We would appreciate your submission of your report. And that, I think, concludes my questions, and I thank you ever so much. I really appreciate you coming forth. Thank you very much.

Now, in closing I want to note that Congressman Bilirakis has a statement for the record and it will be included in the record as though presented in full.

[The prepared statement of Congressman Bilirakis appears on p. 353.]

Senator MATSUNAGA. Finally, I would like to express my personal appreciation, that of Chairman Cranston, and the appreciation, I know, of our other witnesses, to the four VA witnesses, John Vogel, Grady Horton, Gary Hickman, and Dennis Wyant for remaining here throughout the afternoon for the entire hearing. I believe Mr. Vogel and Mr. Hickman were here until just a moment ago. Gary and John, if you run into my good friend, Secretary Derwinski, would you please extend him my thanks for allowing you to remain here. I know you're awfully busy and he has got lots of work for you at the office, but we thank you for being at this hearing.

So as acting chairman of this committee, unless somebody has something to say, I declare the hearing stands in adjournment.

[Whereupon, at 4:45 p.m., the committee was adjourned to reconvene at the call of the Chair.]

APPENDIX

II

101st CONGRESS
1st Session

S. 13

To amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 25 (legislative day, January 3), 1989

Mr. Cranston (for himself, Mr. Matsunaga, Mr. DeConcini, and Mr. Rockefeller) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Benefits and Health Care Act of 1989".

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COST-OF-LIVING ADJUSTMENTS

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1989, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title XI of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100–687), the Secretary shall further increase such rates and limitations, as in effect on November 30, 1989, by the same percentage that benefit amounts payable under title II of the Social Security Act (42

U.S.C. 401 et seq.) are increased effective December 1, 1989, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1990, the Secretary shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) Rate Increases.—The table in section 1508(b) is amended to read as follows:

“Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
Institutional training:				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$353	$437	$514	$38
Three-quarter time	265	328	386	28
Half-time	176	220	258	19
Farm cooperative, apprentice, or other on-job training:				
Full-time	308	372	429	27
Extended evaluation:				
Full-time	353	437	514	38
Independent living training:				
Full-time	353	437	514	38
Three-quarter time	265	328	386	28
Half-time	176	220	258	19.”

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1990.

SEC. 103. EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.

(a) Increased Allowances.—Section 1732 is amended—

(1) in subsection (a)—

(A) by inserting “113.8 percent of” in paragraph (1) after “computed at”; and

(B) by striking out “the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran" in paragraph (2) and inserting in lieu thereof "the lesser of (1) the rate determined under clause (A) of section 1682(b) of this title, or (2) 113.8 percent of the rate provided in clause (B) of such section 1682(b)";

(2) in subsection (b), by striking out "$304" and inserting in lieu thereof "$346";

(3) in subsection (c)—

(A) by inserting "113.8 percent of" in paragraph (2) after "computed at"; and

(B) by striking out "the rate prescribed in section 1682(e) of this title." in paragraph (3) and inserting in lieu thereof "the lesser of (A) the rate determined under clause (A) of section 1682(b) of this title, or (B) 113.8 percent of the rate provided in clause (B) of such section 1682(b). Section 1682(e) of this title, except for the first sentence, shall apply to the educational assistance allowance computed under this paragraph.";

(4) in subsection (e)—

(A) by striking out "(e) In" and inserting in lieu thereof "(e)(1) Subject to paragraph (2) of this subsection, in"; and

(B) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the amount of the monthly educational assistance allowance prescribed, in subsection (a)(1) or (a)(2) of section 1682 of this title and in section 1787(b)(1) of this title, as referred to in section 1682(g) of this title, for a veteran with no dependents shall be deemed to be equal to 113.8 percent of the amount so prescribed."; and

(5) by adding at the end the following new subsection:

"(f) In the computation of an educational assistance allowance under this section, any amount of 50 cents or more shall be rounded to the next higher dollar and any amount of 49 cents or less shall be rounded to the next lower dollar.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

PART B—OTHER BENEFITS PROVISIONS

SEC. 111. EXPANSION OF CLOTHING ALLOWANCE.

(a) IN GENERAL.—The text of section 362 is amended—

(1) by striking out "Administrator" the first two places it appears and inserting in lieu thereof "Secretary"; and

(2) by striking out all after "each veteran" and inserting in lieu thereof the following:

"who, because of disability which is compensable under this chapter—

"(1) wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the clothing of such veteran; or

"(2) uses medication which (A) has been prescribed for a service-connected skin condition, and (B) the Secretary determines stains or otherwise damages such veteran's clothing.".

(b) CONFORMING AMENDMENT.—Section 101 is amended by adding at the end the following new paragraph:

"(33) The term 'Secretary' means the Secretary of Veterans Affairs.".

SEC. 112. PENSION PAYMENTS FOR HOSPITALIZED VETERANS.

(a) AMOUNT OF PENSION.—Section 3203(a)(1) is amended by striking out "$60" each place it appears in subparagraphs (A) and (C) and inserting in lieu thereof "$105".

(b) EXTENSION OF PERIOD FOR PAYMENT OF FULL PENSION TO HOSPITALIZED VETERANS.—Section 3203(a)(1) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Except as provided in subparagraphs (D) and (E) of this paragraph, where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Department of Veterans Affairs, no pension in excess of $105 per month shall be paid to or for the veteran for any period after—

"(i) in the case of a veteran being furnished hospital care, the end of the eighth calendar month following the month of admission for such care; and

"(ii) in the case of a veteran being furnished nursing home care, the end of the third calendar month following the month of admission for such care.";

(2) in subparagraph (D), by striking out "the last day of the third month referred to in such subparagraph" and inserting in lieu thereof "the last day of the period for which the veteran's pension is not reduced under such subparagraph"; and

(3) by adding at the end the following new subparagraph:

"(E) The Secretary may extend the period during which the pension of a veteran referred to in subparagraph (B)(i) of this paragraph is not reduced under such subparagraph if the Secretary determines that the veteran is likely to be discharged from the hospital within the period for which the extension is granted or within a reasonably short period after the expiration of such extended period. No extension may be granted under this subparagraph for a period exceeding two months. However, successive extensions may be granted. The total period of all extensions granted a veteran under this subparagraph in connection with one hospitalization may not exceed four months.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to veterans who are being furnished hospital care by the Department of Veterans Affairs on or after (1) the first day of the first month that begins after the date of the enactment of this Act, or (2) October 1, 1989, whichever is later.

SEC. 113. LIMITED EXTENSION OF THE VETERANS' READJUSTMENT APPOINTMENT AUTHORITY.

(a) IN GENERAL.—Section 2014(b) is amended—

(1) in paragraph (1)—

(A) by inserting "eligible" before "veterans of the Vietnam era"; and

(B) by striking out "a veteran of the Vietnam era" each place it appears and inserting in lieu thereof "an eligible veteran of the Vietnam era";

(2) in paragraph (2), by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new paragraph:

"(3) In this subsection, the term 'eligible veteran of the Vietnam era' means an eligible veteran who—

"(A) is a veteran of the Vietnam era; and

"(B) either—

"(i) is a disabled veteran; or

"(ii) during such era, served on active duty in the Vietnam theater of operations, as determined under regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

PART C—PROGRAM ADMINISTRATION

SEC. 121. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NON-MEDICAL ITEMS.

(a) IN GENERAL.—Section 114 is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"§ 114. Multiyear procurement";

(2) in subsection (a), by striking out "for use in Veterans' Administration health-care facilities";

(3) in subsection (b)(2)(A), by striking out "health-care"; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 114 and inserting in lieu thereof the following:

"114. Multiyear procurement.".

AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide a substitute.

IN THE SENATE OF THE UNITED STATES—101st Cong., 1st Sess.

S. 190

AMENDMENT NO. 110

By MATSUNAGA

Bill/Res. No. S. 190

5 pages

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MATSUNAGA

Viz:

On page 1, strike out line 3 and all that follows through page 3, line 12, and insert in lieu thereof the following:

SECTION 1. CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION.

(a) LIMITATION ON DUPLICATION OF BENEFITS.—Section 3104(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting "as provided in paragraph (3) of this subsection and" after "Except"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, a person may be paid emergency officers', regular, or reserve retirement pay concurrently with the payment of compensation for any service-connected disability if the person's entitlement to such retirement pay is based solely on—

"(i) the person's age;

"(ii) the length of the person's service in the Armed Forces, the Regular or Reserve Corps of the Public Health Service, or the National Oceanic and Atmospheric Administration; or

"(iii) both the person's age and the length of such service.

"(B) In the case of a person who is receiving both retirement pay and compensation, the amount of retirement pay paid such person shall be reduced (but not below zero)—

"(i) if and while the disability is rated 10 percent, by the amount equal to 90 percent of the amount of the disability compensation paid such person;

"(ii) if and while the disability is rated 20 percent, by the amount equal to 80 percent of the amount of the disability compensation paid such person;

"(iii) if and while the disability is rated 30 percent, by the amount equal to 70 percent of the amount of the disability compensation paid such person;

"(iv) if and while the disability is rated 40 percent, by the amount equal to 60 percent of the amount of the disability compensation paid such person;

"(v) if and while the disability is rated 50 percent, by the amount equal to 50 percent of the amount of the disability compensation paid such person;

"(vi) if and while the disability is rated 60 percent, by the amount equal to 40 percent of the amount of the disability compensation paid such person;

"(vii) if and while the disability is rated 70 percent, by the amount equal to 30 percent of the amount of the disability compensation paid such person;

"(viii) if and while the disability is rated 80 percent, by the amount equal to 20 percent of the amount of the disability compensation paid such person; and

"(ix) if and while the disability is rated 90 percent, by the amount equal to 10 percent of the amount of the disability compensation paid such person.

The amount of the retirement pay of a disabled person may not reduced under this subparagraph if and while the disability is rated as total.".

(b) Technical Amendments.—(1) Section 3104 of such title is further amended by striking out the section heading and inserting in lieu thereof the following:

"§ 3104. Limitation on duplication of payments".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 3104 and inserting in lieu thereof the following:

"3104. Limitation on duplication of payments.".

SEC. 2. EFFECTIVE DATE AND PROHIBITION ON RETROACTIVE BENEFITS.

(a) In General.—The amendments made by this Act shall take effect on the first day of the second calendar month following the date of the enactment of this Act.

(b) Retroactive Benefits.—No benefits shall be paid to any person by virtue of this Act for any period before the effective date of this Act.

II

101st CONGRESS
1st Session

S. 564

To provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of members of minority groups, including women, to services and benefits furnished by the Department of Veterans Affairs.

IN THE SENATE OF THE UNITED STATES

March 9 (legislative day, January 3), 1989

Mr. Matsunaga (for himself, Mr. Cranston, Mr. Murkowski, Mr. Mitchell, Mr. DeConcini, and Mr. Inouye) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of members of minority groups, including women, to services and benefits furnished by the Department of Veterans Affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RESPONSIBILITIES OF AN ASSISTANT SECRETARY OF VETERANS AFFAIRS.

(a) Position and Functions of Assistant Secretary.—Section 4 of the Department of Veterans Affairs Act

(Public Law 100–527; 102 Stat. 2638) is amended by adding at the end of subsection (b) the following new paragraph:

"(11) The review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans and the development and implementation of policies facilitating access of such veterans to services and benefits provided under laws administered by the Department.".

(b) "MINORITY VETERAN" DEFINED.—Section 4 of such Act is further amended by adding at the end the following new subsection:

"(h) DEFINITIONS.—As used in this section:

"(1) The term 'minority veterans' means—

"(A) black veterans;

"(B) Native American veterans;

"(C) Hispanic-American veterans;

"(D) Asian-Pacific Islander American veterans; and

"(E) women veterans.

"(2) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code.

"(3) The term 'Native American' means an Indian, a Native Hawaiian, or an Alaska Native.

"(4) The term 'Indian' has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a)).

"(5) The term 'Native Hawaiian' has the meaning given that term in section 815(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

"(6) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(7) The term 'Asian-Pacific Islander' means any person, other than a Native American, whose ancestral origin is in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent of Asia, or the Pacific Islands (including China, Japan, Korea, the Philippine Islands, and Samoa).".

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II

101st CONGRESS
1st Session

S. 1003

To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

May 16 (legislative day, January 3), 1989

Mr. Cranston (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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A BILL

To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Veterans' Educational Assistance Improvements Act of 1989".

(b) References to Title 38.—Except as otherwise specifically provided, whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

Sec. 101. Vocational training for certain pension recipients.
Sec. 102. Accepting alternate secondary school credentials for Montgomery GI bill eligibility.
Sec. 103. Establishment of date by which certain individuals must elect not to participate in the Montgomery GI bill.
Sec. 104. Provision for permanent program of independent living services and assistance.
Sec. 105. Deletion of provisions for advance payment of the work-study allowance.
Sec. 106. Provision for work-study benefits for service-disabled veterans.

TITLE II—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 201. Elimination of rehabilitation subsistence allowance advance payment.
Sec. 202. Accepting school certification for renewal of educational benefits after unsatisfactory progress.
Sec. 203. Clock-hour measurement of certain unit courses or subjects creditable toward a standard college degree.
Sec. 204. Technical and clerical amendments.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

SEC. 101. VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) ELIMINATION OF MANDATORY EVALUATION REQUIREMENT.—

(1) section 524(a) is amended—

(A) by striking out paragraphs (a) (1) and (4) and redesignating paragraphs (2) and (3) as paragraphs (a) (1) and (2), respectively;

(B) in paragraph (a)(1) (as so redesignated) by striking out "subject to paragraph (3)" and all that follows through "applies" and inserting in lieu thereof "subject to paragraph (2) of this subsection, if a veteran who is awarded pension on or before January 31, 1992, applies"; and

(2) Section 524(b)(4) is amended by striking out "following" and all that follows through the period and inserting in lieu thereof "following the award of pension to the veteran as described in subsection (a)(1) of this section."

(b) Trial Work Period.—Section 524 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The pension being paid to a veteran who, while participating in a vocational training program under subsection (b) of this section, secures employment in the objective of the veteran's individualized written rehabilitation plan, or in a related field which requires reasonably developed skills and use of some or all of the training or services furnished the veteran under such plan, shall not be terminated by reason of either the veteran's capacity to engage in such employment or the income received from such employment (but only if veteran's annual income from the other sources would, taken alone, not result in the termination of the veteran's pension) unless the veteran maintains that employment for twelve consecutive months.".

SEC. 102. ACCEPTING ALTERNATE SECONDARY SCHOOL CREDENTIALS FOR MONTGOMERY GI BILL ELIGIBILITY.

(1) Section 1411(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(2) Section 1412(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(3) Section 2132(a)(2) of title 10, United States Code, is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

SEC. 103. ESTABLISHMENT OF DATE BY WHICH CERTAIN INDIVIDUALS MUST ELECT NOT TO PARTICIPATE IN THE MONTGOMERY GI BILL.

(a) Section 1411(c)(1) is amended by striking out "at the time" and inserting in lieu thereof "within fourteen days after the date".

(b) Section 1412(d)(1) is amended by striking out "at the time" and inserting in lieu thereof "within fourteen days after the date".

SEC. 104. PROVISION FOR PERMANENT PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

Section 1520 is amended—

(1) by striking out subsection (b);

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "(1) During fiscal years 1982 through 1989, the" and inserting in lieu thereof "The";

(ii) by striking out "paragraph (7) of this subsection" and inserting in lieu thereof "subsection (f) of this section; and

(iii) by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(B) in paragraph (2), by striking out "and who is selected" and all that follows through "subsection";

(C) in paragraph (3), by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(D) in paragraph (6) by striking out "of the fiscal years 1982 through 1989" and inserting in lieu thereof "fiscal year";

(E) in paragraph (7) by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(F) by striking out paragraph (5) and redesignating paragraphs (2), (3), (4), (6) and (7) as subsections (b), (c), (d), (e) and (f), respectively.

SEC. 105. DELETION OF PROVISIONS FOR ADVANCE PAYMENT OF THE WORK-STUDY ALLOWANCE.

Section 1685(a) is amended by striking out the last sentence thereof.

SEC. 106. PROVISION FOR WORK-STUDY BENEFITS FOR SERVICE-DISABLED VETERANS.

(a) IN GENERAL. —Section 1685(b) is amended—

(1) in the first sentence by striking out "are pursuing" and all that follows through the period and inserting in lieu thereof "(1) are pursuing full-time pro-

grams of education or training under chapter 30, 32, or 34 of this title, (2) are pursuing programs of rehabilitation on at least a half-time basis under chapter 31 of this title (excluding programs where pursuit is based on limited work tolerance), or (3) have disabilities rated at 50 percent or more for purposes of chapter 11 of this title and are pursuing programs of education or training on at least a half-time basis under chapter 34 of this title."; and

(2) in the last sentence by striking out "full-time student" and inserting in lieu thereof "veteran-student as described in clause (1), (2), or (3) of this subsection".

(b) CLERICAL AMENDMENT.—Section 1685 is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

TITLE II—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 201. ELIMINATION OF REHABILITATION SUBSISTENCE ALLOWANCE ADVANCE PAYMENT.

(a) IN GENERAL.—Section 1508 is amended by striking out subsection (i) in its entirety.

(b) CONFORMING AMENDMENTS.—Section 1780 is amended by—

(1) striking out in subsection (d)(1) "or subsistence";

(2) striking out in subsection (d)(2) "or subsistence allowance, as appropriate,"; and

(3) striking out in subsection (e) "or subsistence".

SEC. 202. ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS.

Section 1674 is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified it to the Department of Veterans' Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the veteran—

"(A) the cause of the unsatisfactory conduct or progress has been removed;

"(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

SEC. 203. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS CREDITABLE TOWARD A STANDARD COLLEGE DEGREE.

Section 1788(e) is amended to read as follows:

"(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis, the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 204. TECHNICAL AND CLERICAL AMENDMENTS.

Title 38 is amended as follows:

(1) Section 1434 is amended—

(A) in subsection (a)(1) by inserting "1780(f)," after "1780(c),";

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 1432(b) of this title.".

(2) Section 1633 is amended by adding at the end the following new subsection:

"(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.".

(3) Section 1790 is amended—

(A) in subsection (a)(2) by striking out "and prepayment"; and

(B) in subsection (b)(3)(A) by inserting "30," before "32".

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II

101ST CONGRESS
1ST SESSION

S. 1092

To amend title 38, United States Code, to implement certain recommendations of the Commission on Veterans' Education Policy for veterans' education policy improvements concerning work-study allowances, institutional reporting fees, and distinctions in degree and nondegree training; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 1 (legislative day, JANUARY 3), 1989

Mr. CRANSTON (for himself, Mr. MURKOWSKI, and Mr. MATSUNAGA) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to implement certain recommendations of the Commission on Veterans' Education Policy for veterans' education policy improvements concerning work-study allowances, institutional reporting fees, and distinctions in degree and nondegree training; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Education Policy Improvements Act".

(b) REFERENCES TO TITLE 38.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. VETERAN-STUDENT SERVICES.

(a) CRITERIA FOR DETERMINING WORK-STUDY ALLOWANCE.—Section 1685(a) is amended—

(1) in the second sentence, by striking out "the hourly minimum wage" and all that follows through "(29 U.S.C. 206(a))" and inserting in lieu thereof "the applicable hourly minimum wage";

(2) in the fourth sentence, by striking out "the hourly minimum wage" and all that follows through "performed" and inserting in lieu thereof "the applicable hourly minimum wage";

(3) by inserting "(1)" after "(a)"; and

(4) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the term 'applicable hourly minimum wage' means the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) or the hourly minimum wage under comparable law of the State in which the services are to be performed, whichever is higher.".

(b) CONFORMING AMENDMENT.—Section 1685(b) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(1)".

SEC. 3. SURVIVORS' AND DEPENDENTS' WORK-STUDY ALLOWANCE.

(a) IN GENERAL.—Subchapter IV of chapter 35 is amended by inserting after section 1736 the following new section:

"§ 1737. Work-study allowance

"(a) Subject to subsection (b) of this section, the Secretary shall utilize, in connection with the activities described in section 1685(a) of this title, the services of any eligible person who is pursuing, in a State, a full-time program of education (other than a course of special restorative training) and shall pay to such person an additional educational assistance allowance (hereafter in this section referred to as 'work-study allowance') in return for such eligible person's agreement to perform such services. The amount of the work-study allowance shall be determined in accordance with section 1685(a) of this title.

"(b) The Secretary's utilization of, and payment of a work-study allowance for, the services of an eligible person pursuant to subsection (a) of this section shall be subject to the same requirements, terms, and conditions as are set out in section 1685 of this title with regard to veteran-students pursuing full-time programs of education referred to in subsection (b) of such section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 is amended by inserting after the item relating to section 1736 the following new item:

"1737. Work-study allowance.".

SEC. 4. REPORTING FEES.

Section 1784 is amended—

(1) in subsection (a)(1), by striking out "chapter 34" and inserting in lieu thereof "chapter 31, 34,";

(2) in subsection (b), by striking out "chapters 34" and inserting in lieu thereof "chapters 31, 34"; and

(3) in subsection (c), by striking out "chapter 34" each place it appears and inserting in lieu thereof "chapter 31, 34,".

SEC. 5. REMOVAL OF ATTENDANCE REQUIREMENT DISTINCTIONS BETWEEN DEGREE AND NONDEGREE TRAINING.

(a) UNSATISFACTORY ATTENDANCE.—(1) Section 1674 is amended by striking out "conduct" each place it appears and inserting in lieu thereof "attendance, conduct,".

(2) Section 1724 is amended by striking out "conduct" each place it appears and inserting in lieu thereof "attendance, conduct,".

(b) APPROVAL OF ACCREDITED COURSES WITHOUT ATTENDANCE STANDARDS.—Section 1775(b) is amended by inserting "if the educational institution does not have a formal policy or regulations specifying minimum satisfactory attendance standards required for a student to avoid interruption of a course, loss of credit, or dismissal" before the end parenthesis in the first sentence.

(c) PAYMENT PERIOD.—Section 1780(a) is amended—

(1) in clause (1), by striking out "which leads to" and all that follows through "title," the first time it appears and inserting in lieu thereof "approved pursuant to section 1775 of this title";

(2) by striking out clause (2) and inserting in lieu thereof the following:

"(2) to any eligible veteran or eligible person enrolled in a course approved pursuant to section 1776 of this title for any period for which the Secretary finds, pursuant to section 1674 or 1724 of this title, that such veteran's or person's attendance, conduct, or progress is unsatisfactory or that such veteran or person is not pursuing that course in accordance with (A) the provisions of such regulations as the Secretary may prescribe pursuant to subsection (g) of this section, and (B) the requirements of this chapter or of chapter 34 or 35 of this title;";

(3) in subclause (A) of the matter following clause (5), by striking out ", and such periods" and all that follows through "subsection"; and

(4) in subclauses (B) and (C) of the matter following clause (5), by striking out ", but such periods" and all that follows through "subsection" each place it appears.

(d) CONFORMING AMENDMENT.—Section 1785(b) is amended by striking out "excessive absences from a course, or".

SEC. 6. CHANGES OF PROGRAMS OF EDUCATION.

(a) REPEAL OF LIMITATION ON NUMBER OF CHANGES.—(1) Section 1791(a) is amended by striking out "Except" and all that follows through "education, but" and inserting in lieu thereof "An eligible veteran and an eligible person may make a change of program of education pursued by such veteran or person, as the case may be, if the change is approved by the Secretary. Except as provided in subsections (b) and (c) of this section,".

(2) Section 1791 is amended—

(A) in subsection (b), by striking out the matter above clause (1) and inserting in lieu thereof "The

Secretary may approve any change in program (including any change in the case of a veteran or person not entitled to make a change under subsection (a) of this section) if the Secretary finds—"; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Secretary may also approve any change of program of education if the Secretary finds such change is necessitated by circumstances beyond the control of the eligible veteran or eligible person.".

(b) COUNSELING REQUIREMENT.—(1) Section 1791(b)(1) is amended by inserting ", determined, in the case of each change after the eligible veteran's or eligible person's first change, as provided in subsection (d) of this section" after "abilities".

(2) Section 1791 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) The Secretary may approve a second or subsequent change of program of education by an eligible veteran or eligible person only if—

"(1) the veteran or person accepts educational or vocational counseling services referred to in section 1663 of this title; and

"(2) the Secretary determines, on the basis of the results of the educational or vocational counseling, that the change is suited to the veteran's or person's aptitudes, interests, and abilities.".

SEC. 7. PROOF OF SATISFACTORY PURSUIT OF A PROGRAM OF EDUCATION.

(a) WITHHOLDING OF BENEFITS; FORM OF PROOF.—Section 1780(g) is amended by striking out "the Administrator is authorized" in the second sentence and inserting in lieu thereof "the Secretary may withhold payment of benefits to such eligible veteran or eligible person until the required proof is received and the amount of the payment is appropriately adjusted. The Secretary may accept such veteran's or person's monthly certification of enrollment in and satisfactory pursuit of such veteran's or person's program as sufficient proof of the certified matters.".

(b) TECHNICAL AMENDMENT.—Section 1780(g) is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(c) CONFORMING AMENDMENTS.—Section 1434 is amended—

(1) in subsection (a)(1), by striking out "1780(g),";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 8. WITHDRAWAL FROM COURSE UNDER MITIGATING CIRCUMSTANCES.

Section 1780 is amended by adding at the end the following new subsection:

"(h) Mitigating circumstances referred to in subsection (a)(4) include the suspension of the pursuit of a program of education by an eligible veteran or eligible person in order for such veteran or person personally to furnish child care for the veteran's or person's child if the necessity for personally furnishing such child care results from difficulties, beyond the control of such veteran or person, in making or changing child-care arrangements.".

SEC. 9. EFFECTIVE DATE OF ADJUSTMENTS OF EDUCATIONAL BENEFITS.

Section 3013 is amended to read as follows:

(1) by striking out "Effective" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, effective"; and

(2) by adding at the end the following new subsection:

"(b) The effective date of an adjustment of benefits under any provision of law referred to in subsection (a) of this section, if made on the basis of a change in a student's rate of pursuit of training or other change in a student's training time, shall be the date of the change.".

SEC. 10. DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION OF SELECTED RESERVE EDUCATIONAL ASSISTANCE.

(a) APPROVAL OF COURSES.—Section 1789(b)(6)(B) is amended by inserting "and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106 of title 10" after "dependents".

(b) ELIGIBILITY TO PERFORM VETERAN-STUDENT SERVICES.—(1) Section 1685(b) is amended by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence.

(2) Section 1685 is amended by adding at the end the following new subsection:

"(e) For the purposes of this section, the terms 'veteran' and 'veteran-student' include a person receiving educational assistance under chapter 106 of title 10.".

(3) Section 2136(b) of title 10, United States Code, is amended by striking out "and 1683" and inserting in lieu thereof "1683, and 1685".

SEC. 11. EFFECTIVE DATES AND APPLICABILITY.

(a) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by section 2 of this Act shall take effect on January 1, 1990.

(b) APPLICABILITY.—The amendments made by section 5 of this Act shall apply with respect to enrollments and reenrollments on or after the date of the enactment of this Act.

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OPENING STATEMENT
SENATOR ALAN CRANSTON, CHAIRMAN
COMMITTEE ON VETERANS' AFFAIRS
HEARING ON
Title I of S. 13, S. 564,
Amendment No. 110 to S. 190, S. 1003, S. 1092, and the Recommendations of the Commission on Veterans' Education Policy

Good afternoon, ladies and gentlemen. At the outset, I want to thank Senator Matsunaga for responding to my request that he chair this hearing. Spark is a very active and outstanding member of this Committee, and I greatly appreciate his help this afternoon. I congratulate him on the two measures he has introduced on which we are hearing testimony today.

Today's hearing concerns the following:

* Title I of S. 13, the proposed "Veterans' Benefits and Health Care Act of 1989", a bill I introduced on January 25, 1989, that is cosponsored by Committee members Matsunaga, DeConcini, Rockefeller, Mitchell, and Graham and Senators Burdick and Kerry. This legislation would provide cost-of-living adjustments in VA compensation benefits and in allowances under chapter 31 and 35 of title 38; make certain improvements in the clothing allowances and the pension program; and provide a limited extension of the Veterans' Readjustment Appointment authority.
* S. 1092, the proposed "Veterans' Education Policy Improvements Act", a bill I introduced on June 1, 1989, that is cosponsored by the Committee's Ranking Minority Member, Senator Murkowski, and Senator Matsunaga, to implement certain recommendations, with some revisions, of the Commission on Veterans' Education Policy (CVEP) established under section 320 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), which I coauthored with Senator Murkowski. Additionally, we will be hearing testimony on the CVEP's August 29, 1988, report entitled "Veterans' Education Policy" (S. Prt. 100-125, September 22, 1988) as well as on VA's "Interim Report on Veterans' Education Policy", which was transmitted to the Committee by Secretary Derwinski on April 24, 1989.
* S. 564, introduced by Senators Matsunaga, joined by Committee members Murkowski, Mitchell, DeConcini, and myself, and Senator Inouye on March 9, 1989, to require the Secretary to assign to an Assistant Secretary of Veterans' Affairs responsibility for monitoring and promoting the access of members of minority groups, including women, to VA services and benefits.
* Amendment No. 110 to S. 190, submitted on May 31, 1989, by Senator Matsunaga to permit service-connected disabled veterans who retire from the Armed Forces based on age or length of service to receive military retired pay concurrently with VA disability compensation, with graduated reductions in the amount of compensation for those rated less than totally disabled.
* S. 1003, the proposed "Veterans' Educational Assistance Improvements Act of 1989", which I introduced at the request of the Administration on May 16, 1989, to make certain revisions in educational assistance programs for veterans and eligible persons.

I especially want to express my thanks to today's witnesses for their very supportive testimony on the provisions of the various bills I authored or cosponsored which are before the Committee today. Thanks also for your constructive recommendations for improving them. Again, I thank all witnesses for getting their prepared statements to us in advance. That was very helpful.

My appreciation goes equally to VA and the Department of Defense, which had a number of legislative provisions to take positions on in a short period. V.A.'s testimony particularly was generally quite constructive and positive, and I appreciate your efforts to be both timely and responsive.

U.S.S. IOWA TRAGEDY

Before I discuss the legislation under consideration this afternoon, I'd like to take just a few moments to express to VA Chief Benefits Director John Vogel my appreciation for the work of VA regional office staff throughout the country in assisting the families and loved ones of the forty-seven men who tragically lost their lives during a gun-turret explosion aboard the U.S.S. Iowa on April 19th of this year.

It is the men and women in uniform -- not the weapons or the technology -- that are the heart of our Nation's defense. The U.S.S. Iowa tragedy, like similar tragedies in recent years in Beirut, Gander, and the Persian Gulf, vividly demonstrates the difficulty and danger of military service, even in times of peace.

Immediately after the U.S.S. Iowa incident, VA's Washington-based Veterans Assistance Service and the Department of the Navy began communicating. Likewise, the Norfolk, Virginia, Naval Base and the Roanoke, Virginia, VA regional office made plans for the rapid exchange of information and the development of joint services to surviving family members. Throughout the Nation, a network of Navy and VA regional office staff, operating as a team, met with families through a program known as "casualty assistance". Personal visits were made, benefits were explained, appropriate claims and applications were prepared, and processing steps were expedited.

Within a matter of days, VA paid Servicemen's Group Life Insurance benefits totaling $2 million to beneficiaries as a result of the Iowa tragedy. In addition, surviving spouses and children, and some parents, will soon receive monthly dependency and indemnity compensation. Surviving spouses and children are also eligible for Survivors and Dependents' Educational Assistance and home loan guaranty benefits, and some applications have already been filed for these benefits.

Dedicated VA employees have done their job. They've done it quickly, and with compassion. Their work with the surviving family members is a living and lasting memorial to the 47 sailors who perished. These employees have my gratitude.

S. 13 -- TITLE I

I would like, at this point, to highlight the provisions of title I of S. 13.

Compensation/DIC Cola

Section 101 would require the Secretary to make a cost-of-living adjustment (COLA), effective December 1, 1989, in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) paid to the survivors of those who have died as a result of service-connected disabilities and to the survivors of certain veterans who died while totally and permanently disabled as the result of service-connected disabilities. The COLA would be at the same percentage as that which will be provided to Social Security recipients and VA pension beneficiaries effective the same date. The Office of Management and Budget estimates that this rate will be 3.6 percent; the Congressional Budget Office estimates that it will be 4.9 percent. These increased benefits would be paid beginning on January 1, 1990.

VA's service-connected disability compensation program is at the very heart of our system of veterans' benefits. The Committee has consistently and firmly attached the highest priority to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice in service to our country. Meeting the needs of the more than 2.2 million veterans with service-connected disabilities and the 328,000 survivors of those who died from service-connected disabilities will remain my number one priority in veterans' affairs.

Through COLAs, we can ensure that the value of these service-connected VA benefits is not eroded by inflation. Thus, this Committee has developed legislation which has provided for annual increases in these rates every fiscal year since 1976.

Increases In Rehabilitation And Educational Allowances

Sections 102 and 103 of S. 13 would provide, effective January 1, 1990, for a 13.8-percent increase in the rates of the subsistence allowance paid under chapter 31 of title 38 to veterans with service-connected disabilities who are participating in VA programs of rehabilitation and of the educational assistance allowance paid under chapter 35 of title 38 to certain dependents and survivors of service-connected veterans. The Congress last increased the allowances under chapters 31 and 35, effective October 1, 1984, through the enactment in Public Law 98-543 of legislation derived from a proposal I authored. According to data from the Bureau of Labor statistics, the Consumer Price Index rose 13.8 percent from the end of 1984, through December 1988.

Disabled veterans in vocational rehabilitation programs require a COLA in their subsistence allowances in order to offset the increased costs of subsistence and transportation. Survivors and dependents of service-connected disabled veterans using chapter 35 educational assistance are faced with even more greatly increased expenses. The Department of Education reports that the costs of tuition, fees, room, and board associated with higher education have risen dramatically. From 1984 through 1988, the cost of higher education increased 18 percent for public colleges and universities and 28 percent for private institutions. The increase in assistance to chapter 35 participants would help their benefits keep up with today's costs of education and training.

In view of these rising costs, I believe that the proposed

13.8-percent increase is fully justified to maintain adequate financial support for individuals whose readjustment following either a service-connected injury or death of a spouse or parent is primarily dependent on further education and training. I note that -- in recognition of the need for fiscal austerity -- this 13.8 percent increase does not include an estimate of further inflation from 4 to 5 percent that will occur this calendar year.

OTHER PROVISIONS RELATING TO DISABLED VETERANS

Title I of S. 13 would also expand the annual clothing allowance provided to veterans so as to include cases in which veterans with certain service-connected skin conditions use medications under chapter 31 of title 38; provide that monthly pension payments to hospitalized veterans with no dependents could not be reduced until the veterans has been hospitalized for 8 months -- with the Chief Medical Director authorized to extend that period, for no more than two 2-month periods, upon determining that the veteran is likely to be released from the hospital in a reasonable period of time -- and raise the limit on such reduced pension payment from $60 to $105; extend the veterans' readjustment appointment authority for Civil Service appointments for 2 years, through December 31, 1991, for Vietnam-era veterans who (a) have a service-connected disability, or (b) served in the Vietnam theater of operations; and expand VA's multiyear procurement authority to include the purchase of non-health-care supplies and services. These provisions in title I are explained in detail in my introductory statement of January 25, 1989, which appeared in the Congressional Record (S235).

S. 1092/RECOMMENDATIONS OF THE COMMISSION ON VETERANS' EDUCATION POLICY

S. 1092 would implement certain recommendations of the CVEP, with revisions in certain cases. I have long believed that the working relationship between VA and our Nation's education institutions must be a cooperative and interdependent "partnership" to serve the best interests of veterans, servicemembers, and eligible persons. And that is what the CVEP's work is all about. I applaud the Commission members for outstanding contributions under the very fine leadership of the chairman, Janet Steiger. Janet has brought dynamic leadership and a real vitality to this project, as we knew she would.

I also want to applaud and congratulate the Commission's Executive Director, Babette Polzer, for her excellent work on the Commission. I am proud of Babette's fine accomplishments at the Commission following her work as a staff adviser to me for some 12 years in the areas of employment, poverty, children's issues and veterans' education, employment, home-loan and other benefits.

Finally, I want to take special note of the many contributions made to the Commission's work by three Commission members: my very close friend and advisor Oliver Meadows who is chairman of the Secretary of Veterans' Affairs Advisory Committee on Education and who served with great distinction for so many years as staff director of the House Veterans' Affairs Committee; my constituent Bertie Rowland, a past president of the National Association of Veterans Program Administrators; and my good friend Jack Wickes, who was so helpful to me as an associate counsel on the Veterans' Affairs Committee as well as on my Subcommittee on Child and Human Development on the Labor Committee.

I also want to acknowledge the many career professionals in the Veterans' Benefits Administration for the excellent cooperation and valuable assistance they provided to the Commission in the conduct of its work. The VA's February 28, 1989, "Interim Report on Veterans' Education Policy", transmitted to the Committee by Secretary Derwinski on April 24, 1989, was most helpful to me in formulating S. 1092.

The provisions in S. 1092 are explained in detail in my introductory statement of June 1, 1989 (Congressional Record on pages S 5994 through S 5997), and I look forward to this afternoon's testimony on this bill.

S. 564

S. 564 would provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of minorities including blacks, Native Americans, Hispanics, Asian-Pacific Islanders, and women to services and benefits furnished by the Department of Veterans Affairs. I am proud to be a cosponsor of this bill -- which now has 17 cosponsors -- and congratulate Senator Matsunaga on its introduction.

CONCLUSION

I am looking forward to the testimony of each of our witnesses this morning. Once again, I want to express my deep appreciation to Senator Matsunaga for chairing this hearing.

STATEMENT OF SENATOR FRANK H. MURKOWSKI
JUNE 9, 1989
HEARING OF THE COMMITTEE ON VETERANS' AFFAIRS CONCERNING VETERANS' EDUCATION AND BENEFITS ISSUES

GOOD AFTERNOON,

I AM PLEASED THAT THE COMMITTEE WILL HEAR TESTIMONY THIS AFTERNOON FROM A WIDE RANGE OF INDIVIDUALS AND ORGANIZATIONS CONCERNING VETERANS' BENEFITS LEGISLATION.

VETERANS' DISABILITY COMPENSATION IS NOT AUTOMATICALLY INCREASED AS THE COST OF LIVING INCREASES. THE COMMITTEE MUST THEREFORE PROVIDE FOR A COST-OF-LIVING ADJUSTMENT EACH YEAR. THIS HEARING IS A CRITICAL STEP IN MEETING THAT OBLIGATION.

ANOTHER IMPORTANT ITEM ON THE COMMITTEE'S AGENDA IS THE REPORT OF THE COMMISSION TO ASSESS VETERANS' EDUCATION POLICY.

VETERANS' EDUCATION BENEFITS HAVE BEEN ONE OF THE MOST IMPORTANT AND SIGNIFICANT SUCCESS STORIES OF MODERN GOVERNMENT.

- WHEN WE LEARN THAT THE UNEMPLOYMENT RATE OF VIETNAM-ERA VETERANS IS LOWER THAN THE UNEMPLOYMENT RATE OF THEIR NON-VETERAN COUNTERPARTS, WE SHOULD THANK THE GI BILL.
- WHEN WE READ THAT VIETNAM-ERA VETERANS ARE MORE LIKELY THAN THEIR NON-VETERAN COUNTERPARTS TO HAVE INCOMES OVER $30,000 PER YEAR, WE SHOULD THANK THE GI BILL.

o WHEN WE OBSERVE THAT VIETNAM VETERANS ARE FAR MORE LIKELY THAN THEIR NON-VETERAN COUNTERPARTS TO BE HIGH SCHOOL GRADUATES AND TO HAVE POST SECONDARY EDUCATION, WE SHOULD THANK THE GI BILL.

THE SUCCESS OF THE GI BILL DOES NOT MEAN THAT WE SHOULD LEAVE THE PROGRAM ISOLATED FROM CHANGE. ON THE CONTRARY, THE IMPORTANCE OF THE GI BILL IMPOSES AN OBLIGATION ON THE CONGRESS. AN OBLIGATION TO ENSURE THE GI BILL EVOLVES. JUST AS THE STUDENTS IT SERVES, THE SCHOOLS THEY ATTEND, AND AMERICA'S ECONOMY AND SOCIETY CONTINUE TO EVOLVE.

THE CONGRESS ACKNOWLEDGED THE VALUE OF VETERANS' EDUCATION BENEFITS WHEN IT MADE THE MONTGOMERY GI BILL A PERMANENT PROGRAM. WE ACKNOWLEDGED OUR STEWARDSHIP OVER THE PROGRAM WHEN WE ESTABLISHED THE COMMISSION TO ASSESS VETERANS' EDUCATION POLICY.

THIS COMMISSION, ABLY CHAIRED BY JANET STEIGER, REVIEWED A BODY OF LAW AND PROCEDURE ROOTED IN THE ORIGINAL GI BILL WHICH WAS ENACTED FORTY FIVE YEARS AGO. THE COMMISSION TACKLED THE DIFFICULT TASK OF EVALUATING THE CURRENT VALUE OF PRACTICES BORN ALMOST HALF A CENTURY AGO.

I WAS ORIGINALLY QUITE CONCERNED WITH THE COMMISSION'S RECOMMENDATION TO DELETE THE LIMIT ON PROGRAM CHANGES ALLOWED VETERAN STUDENTS. THIS LIMIT HAS SERVED TO PROTECT THE INTEGRITY

OF THE GI BILL. I NOTE, HOWEVER, THAT VETERAN STUDENTS OF THE FUTURE WILL HAVE BOTH SWEAT AND FINANCIAL EQUITY IN THEIR BENEFITS. THIS EQUITY WILL QUALIFY THESE VETERANS TO DECIDE HOW TO BEST USE THEIR BENEFITS. IF MY OPTIMISM IS MISPLACED, AND IF REPEAL OF THE LIMITATION DOES LEAD TO ABUSE, THE LIMIT CAN BE REIMPOSED BY A FUTURE CONGRESS.

I PLACE GREAT VALUE ON THE COMMISSIONS' WORK. I AM PLEASED TO HAVE JOINED WITH THE COMMITTEE'S DISTINGUISHED CHAIRMAN IN INTRODUCING A BILL WHICH WOULD ENACT MANY OF ITS RECOMMENDATIONS.

I AM ALSO PLEASED TO BE AN ORIGINAL COSPONSOR, WITH OUR COLLEAGUE FROM HAWAII, OF LEGISLATION WHICH WOULD ENSURE THAT THE CONCERNS OF MINORITY VETERANS WILL BE INCLUDED IN THE RESPONSIBILITIES OF ONE OF THE ASSISTANT SECRETARIES OF VETERANS AFFAIRS.

I LOOK FORWARD TO HEARING AND READING THE VIEWS OF OUR WITNESSES ON THESE AND THE OTHER QUESTIONS BEFORE THE COMMITTEE.

I AM SURE OUR WITNESSES JOIN WITH THE COMMITTEE IN NOTING WITH PLEASURE THAT THE 1989 SUPPLEMENTAL APPROPRIATIONS BILL HAS NOW PASSED THE SENATE. I AM HOPEFUL THAT THE CONFERENCE BETWEEN THE HOUSE AND SENATE WILL GO QUICKLY AND SMOOTHLY. VETERANS, AS WELL AS THE DEPARTMENT THAT SERVES THEM, WILL BE BETTER SERVED WHEN THESE FUNDS ARE AVAILABLE.

STATEMENT OF
R. J. VOGEL
CHIEF BENEFITS DIRECTOR
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
JUNE 9, 1989

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss several items relating to veterans' benefits: Title I of S. 13; S. 564; the report of the Commission to Assess Veterans' Education Policy; S. 1092; S. 1003; and an amendment to S. 190.

Title I of S. 13

Compensation COLA'S

Section 101 of S. 13 would authorize cost-of-living increases in the statutory rates of disability compensation and dependency and indemnity compensation (DIC) benefits for veterans and survivors in the same percentage as that which will be provided to Social Security recipients and VA pension beneficiaries.

The Administration strongly supports COLA's for these most deserving beneficiaries. We believe, however, that the Committee should instead consider the Administration's proposal--currently embodied in S. 613, which you introduced at our request--to index these increases permanently to the Consumer Price Index (CPI), as the Congress has done in the pension program.

Administration of the disability compensation and DIC programs is one of VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed cost-of-living allowances in Social Security and VA pension. However, these adjustments have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 100-687, approved by President Reagan on November 18, 1988. Since 1973, legislation has been enacted every year but one (1983) granting increases in these benefits to compensate for increases in the cost of living. VA has consistently supported these adjustments.

As you are aware, Mr. Chairman, reliance on separate, annual public laws can result in problems. For example, H.R. 2945, which became Public Law No. 100-227, was not presented to President Reagan until December 22, 1987. Even though the rate increases contained in that law were effective December 1, 1987, the timing of the COLA enactment resulted in beneficiaries not receiving the first increased payments until issuance of the March 1988 checks, due to necessary administrative adjustments.

Tying compensation and DIC rates to the CPI would remove the issue of rate increases from the political arena and shield the determinations from pressures of the annual budget process. It would also save Congress the difficulty of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance. Finally, it would eliminate COLA delays such as that experienced with Public Law No. 100-227.

While we certainly support granting veterans' compensation recipients the same annual COLA as that given to veteran pensioners and Social Security beneficiaries, we believe that indexing makes more sense in ensuring that our disabled veterans will receive timely increases in their benefits. Accordingly, we strongly recommend that S. 613 be adopted rather than Section 101 of S. 13.

VA estimates the cost of Section 101 to be $335,600,000 in fiscal 1990, with a five-year cost of $1.9 billion for fiscal years 1990 through 1994.

Cost-of-Living Allowance: Chapters 31 and 35

Sections 102 and 103 would increase the subsistence allowances paid to service-connected disabled veterans participating in rehabilitation programs under chapter 31 of title 38, and the rates of educational assistance paid to survivors and dependents under chapter 35, by 13.8 percent, effective January 1, 1990.

While we cannot support a rate increase of this magnitude, VA does support a 5 percent increase for these benefits in the context of the overall budget negotiations. We estimate the 5 percent rate increase in benefits for both programs would cost $5.2 million in FY 1990, with a five-year cost of $32.9 million.

The cost of the 13.8 percent rate increases proposed by section 102 would be $6 million in 1990, with a five-year cost of $39.9 million. The 1990 cost of section 103 would be $9 million, with a five-year cost of $53.9 million. Thus, the combined 5-year cost of both benefits would be $93.8 million.

Clothing Allowance

Section 111 would expand the clothing allowance to veterans with a service-connected skin condition who use a medication which the Secretary determines stains or otherwise damages their clothing. This provision is substantially identical to section 201 of S. 2267 and H.R. 4672, both of which were introduced last session at the request of the Reagan Administration.

Current law, 38 U.S.C. § 362, provides that a clothing allowance may be paid to a veteran, who, because of service-connected disability, wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the veteran's clothing. VA has learned that the medications used by some veterans in treatment of their skin conditions may irreparably stain their clothing. Accordingly, section 111 would authorize the Secretary to determine whether medication for a service-connected skin condition causes such damage to clothing as to require payment of a clothing allowance.

We estimate the benefit cost of this proposal to be less than $1 million in any fiscal year and the administrative cost to be less than $100,000. The Administration strongly supports this proposal.

Pension Benefits for Hospitalized Veterans

Section 112 deals with the reduction of pension benefits for veterans who are receiving extended care at VA expense in hospitals, nursing homes, and domiciliaries. This section would (1) increase the amount payable to such veterans to $105 and (2), in the case of hospitalized pensioners, extend from three to eight calendar months the period after which benefits would be reduced. We do not oppose section 112.

Under current law, if a veteran pensioner who has neither spouse nor child is being furnished nursing home or hospital care by VA, his or her pension is reduced to $60 per month after three calendar months following admission. Pension for such a veteran receiving domiciliary care from VA is so reduced after two calendar months. Section 112 would change the law to increase the amount payable to all such veterans to $105 and, in the case of hospitalized veterans, not reduce payments until eight calendar months following admission. The time following admission after which payments would be reduced would remain unchanged when the pensioner is receiving VA-provided domiciliary or nursing home care.

With respect to the change from $60 to $105 per month, we note that the current amount has been in force since 1979. We believe that an increase may be warranted.

Concerning extension of the three-month period, we recognize that, although the Government furnishes the great part of the support for a hospitalized veteran without dependents, the veteran may in some cases have continuing obligations and fixed expenses, such as rent. Unfortunately, the current system may leave a veteran with the difficult choice of remaining in the hospital until well, and losing home and personal possessions, or of leaving the hospital prematurely in order to meet continuing obligations. If the veteran remains long enough for the reduction to go into effect, the institutional stay may be unnecessarily prolonged since it is difficult to place the veteran back in the community when he or she lacks funds for a security deposit and other expenses.

VA believes that, where a veteran has no dependents and is being maintained at government expense, gratuitous, need-based benefits should not be allowed to merely increase an estate to be inherited by collateral heirs. Accordingly, we do not support an outright abolition of the pension-reduction provision.

However, if hardship and unnecessary institutionalization are to be avoided, reductions should be reserved for veterans who receive extended care from the VA and who thus can be presumed not to be returning to the community in the immediately foreseeable future. With the increasing emphasis on decreasing the duration of hospital stays, we believe few veterans would be affected by a reduction which did not occur until eight months following admission. Those veterans whose benefits continued would not be in danger of losing their homes so that it would be easier for the hospitals to place them back in the community. The bill provides that the reduction will not go into effect for those who are being rehabilitated and whose discharge is imminent. This is an excellent provision which will prevent unnecessary disruption of benefits and allow for better predischarge planning.

VA estimates the cost of section 112 to be $2.2 million in fiscal year 1990, with a five-year cost of $11.0 million for fiscal years 1990 through 1994.

Limited Extension of VRA Appointment Authority

Section 113 would extend, through December 31, 1991, the Veterans' Readjustment Appointment (VRA) authority for Vietnam-era veterans who have a service-connected disability or who served in the Vietnam theater of operations.

The VRA authority has been a great success in providing employment opportunities for disadvantaged Vietnam-era veterans. It allows Federal agencies to hire these veterans without competition on Civil Service examinations and subsequently to convert them to career or career-conditional appointments after two years of satisfactory employment and training.

VA strongly supports the extension of this authority. This authority has led to the permanent employment of many disabled and Vietnam-era veterans who, once provided the opportunity, have proved to be high-quality employees. Extending the authority for readjustment appointments can aid veterans in completing their readjustment.

Multiyear Procurement

Section 121 would expand the Department's multiyear procurement authority in 38 U.S.C. § 114. Currently, VA is authorized to acquire supplies and services by use of multiyear contracting methods solely for use in its health-care facilities. If enacted, this limitation would be eliminated, and all VA activities would be authorized to use this contracting method.

The Administration, which proposed this authority last year (S. 2036), strongly supports section 121. We believe that there is no valid reason to restrict current multiyear contracting authority to products and services for use at health-care facilities. Enactment of the proposal would allow multiyear contracting in the acquisition of headstones and markers by the National Cemetery System and of automated data processing equipment and software by the Office of Acquisition and Materiel Management. These contracts often require significant start-up costs, both in terms of capital outlays and personnel resource commitments. Multiyear contracting would allow the contractor to equitably amortize these investments over an extended period of time. The expected result would be increased competition and better pricing, without any increase in administrative costs.

Also, if multiyear contracting authority is granted to all civilian agencies, significant costs to the Government would be avoided. Multiyear contracting would lower acquisition prices, reduce administrative costs, and enhance the quality of vendor performance.

S. 564

S. 564 would amend Public Law No. 100-527, the Department of Veterans Affairs Act, by adding, in section 4 of that Act, an additional item to the list of functions to be assigned to the Assistant Secretaries. The new function provided by the bill would entail the review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans, including women, and the development and implementation of policies facilitating access of such veterans to services and benefits provided under laws administered by the Department.

The Department generally views favorably legislation which would assist minority veterans; however, we oppose the proposed legislation for three reasons: it would restrict the Secretary's authority to place responsibility for implementation of policies with those elements normally responsible for carrying out this important mission; it would essentially duplicate a provision of Public Law No. 100-527 which currently makes the Assistant Secretaries responsible for equal opportunity functions; and, in our view, it is unnecessary because the activities contemplated by the proposed bill have already been incorporated in the structure set up by the Department to assist minority veterans.

Our first objection is from a management point of view: The bill would require the Secretary to assign "line" responsibility to a staff officer. As drafted, the bill requires that responsibility for the "implementation of policies" be assigned at the Assistant Secretary level. The "line" agencies of the Department--the Veterans Benefits Administration (VBA), the Veterans Health Services and Research Administration (VHS&RA), and the National Cemetery System--are and should be responsible for the implementation of the policies of the Department. To assign to Assistant Secretaries the role of implementing policy also assigned to the various elements would at best result in dual responsibility and at worst create a needlessly complex chain of authority, with management responsibility resting in part in a position created to advise, not to command.

Indeed, Mr. Chairman, requiring implementation at the staff level would run completely counter to the legislative intent of the Department of Veterans Affairs Act. As the Senate Committee on Governmental Affairs stated in its report on that legislation, in a highly decentralized agency like the VA, a clear chain of command between the

Secretary, the operating units, and the Assistant Secretaries is essential. If nothing else, it is imperative that "implementation of policies" be deleted from the proposed new addition to the functions listed in section 4 of Pub. L. No. 100-527.

Second, we believe that Congress has already mandated staff responsibility for the vital concerns expressed in S. 564. Public Law No. 100-527 establishes equal opportunity as one of the functions of the Assistant Secretaries. This function would serve as a natural umbrella for the review and assessment provisions included in the bill. It would seem unnecessary to establish a function which would overlap or duplicate the duties already mandated by law for the Assistant Secretaries.

Finally--and perhaps most importantly, Mr. Chairman--VA, through its line agencies, already has in place outreach efforts and specific programs aimed at the very groups S. 564 seeks to assist. We not only share the concerns which S. 564 expresses, we have made it our policy to do something about them.

Under the direction of the Chief Benefits Director, VBA's outreach programs are numerous and varied. For example, VA Regional Offices are required to obtain and maintain lists of the names and addresses of women veterans in their jurisdictions in order to advise them of benefits available. Regional Offices establish liaison with the various women's veterans' organizations and provide speakers to them upon request for their meetings and special events.

The unique situation of Native American veterans receives special treatment at the VA. Joint Committees consisting of officials from VBA and the VHS&RA currently meet for purposes of setting up outreach programs to define areas of Native American population and problems of native American veterans in these areas. As a result, states with substantial Native American populations--such as Arizona, Oklahoma, and Alaska--already have programs and outreach efforts specifically directed toward Native Americans.

For Spanish speaking veterans and beneficiaries, pamphlets and papers written in Spanish are already an integral part of outreach efforts and notification procedures where appropriate. VBA also has outreach programs geared to assist the homeless, which result in direct contact with disadvantaged members of all the groups listed in the proposed legislation.

In the area of education, VBA assures compliance with equal-opportunity laws by educational institutions through periodic reviews, investigations of complaints of discrimination, and interagency agreements.

The Department is committed to making benefits and services available to all veterans regardless of race, creed, national origin, sex, or age. We are cognizant of the problems of disadvantaged veterans, and many programs have been initiated to assist them. We are in favor of legislation which would offer assistance to these veterans. However, legislative action which would assign to staff responsibilities which rightfully belong to the line managers is not, quite frankly, going to improve the situation. We fully share the concerns which inspired S. 564, but we see its enactment as both defeating the careful analysis leading to Departmental status for VA and, indeed, as a hindrance to VA's efforts. For these reasons we are unable to support this bill.

Education Measures

Commission Recommendations

Mr. Chairman, I will now turn to the recommendations of the Commission to Assess Veterans' Education Policy. In this regard, I first would like to congratulate the members of the Commission on the excellent work they accomplished. It was no easy task reviewing programs as comprehensive as our various educational assistance programs. We appreciate the hard work that went into the Commission's report, the thoughtful exchange of ideas, and the many fine recommendations that resulted.

Over the years, our educational assistance programs have increased both in number and complexity. In the administration of the laws covering these programs, VA has tried to reach a balance between what are sometimes two competing interests. On the one hand, we want to pay veterans their benefits as quickly as possible. On the other hand, we want to pay them the correct amount as provided by law. The Commission made a number of recommendations consistent with these objectives.

The VA is in general agreement with the vast majority of the Commission's recommendations on the central issues addressed. Our detailed comments on each of these issues are set forth in "An Interim Report on Veterans' Education Policy" which we previously submitted to this Committee. Rather than merely reiterate those views here, we would instead like to emphasize those areas which we consider to be of particular significance.

First, the Commission recommended a consolidated-region approach for the processing of all education claims. In our "Interim Report," we indicated that we were studying the feasibility of this approach. This review is continuing.

Of equal significance is the focus on the subject of course measurement which has become increasingly complicated over the years. We think the Commission is to be especially commended for their recommendations in this area and the fresh insights into ways of simplifying program administration. As a result, we will more fully explore certain Commission alternatives in a Departmental study. The study will focus on the feasibility of eliminating the present distinctions between traditional and nontraditional modes of study, including course measurement without regard to the mode of delivery or to standard class sessions, and on the nature and extent of restrictions necessary on the contracting out of instruction.

The Commission has recommended that the different features of the various veterans' education programs be standardized to the maximum extent possible, consistent with their design and purpose. We wholeheartedly support this recommendation. We also agree with the Commission's innovative suggestion that a task force of Adjudicators and Education Liaison Representatives be formed to compile an accurate and complete listing of the differences in current programs.

VA further agrees with the Commission regarding counseling and support services to veterans, debt recovery and fraudulent claims, the role of continuing education, training and associated administrative resources, as well as retention of the 2-year rule, standards of progress, and the "85-15 rule." We also agree with the Commission's ideas on better publications and communications, with the caveat that improvements must be made within our available resources.

Finally, we note that several Commission recommendations have been implemented by legislation. For example, certain proposals have now been implemented involving: compliance surveys and supervisory visits; mitigating circumstances; remedial, deficiency and refresher training; and the restoration of pay reductions under certain circumstances.

Certain other significant Commission recommendations have been included in S. 1092. Before discussing that legislation, however, I want to express my particular appreciation to Mrs. Janet Steiger, who served as Chairman of the Commission, to each of the Commission members, and to the Commission's Executive Director, Babette Polzer, for their contributions in this important effort to improve VA education benefit programs.

S. 1092

Mr. Chairman, as you requested, I would now like to provide our views on a bill which you recently introduced along with Senators Murkowski and Matsunaga, S. 1092, the "Veterans Education Policy Improvements Act." While we support certain provisions of this measure and agree in concept with certain others, the VA cannot support enactment of the bill as drafted for the reasons more fully explained in the following analysis.

The first substantive provision of the bill, section 2, would authorize VA work-study students to receive payment for services at the Federal hourly minimum wage, or the applicable State hourly minimum wage, whichever is higher. This section conforms with a VA-proposed alternative to the Education Policy Commission's recommendation for a broader scale approach to such benefits. We support this provision as it would provide the equity sought by the Commission and would advance the purposes of the work-study program.

Section 3 would expand eligibility for the work-study program to include students training under the Dependents' and Survivors' Educational Assistance program (chapter 35). We do not believe chapter 35 recipients should be included in the work-study program. Chapter 35 students, in many cases, qualify for many Government-sponsored financial programs, including the work-study program funded by the

Department of Education. These same programs are not available to veteran-students because their income exceeds the financial criteria established for many Government-wide financial assistance programs.

Section 4 would include service-disabled veterans in training under the vocational rehabilitation program as part of the numerical count for reporting fee purposes. We note that school officials have responsibilities to perform functions pertaining to such trainees that frequently require additional services and assistance by the educational institution. As we stated in our interim report, we will examine the need for the fee in the context of the book-handling fee already being paid to the institutions on behalf of these students.

Section 5 would remove the distinction in attendance-reporting requirements between degree and nondegree institutions. It would also remove the prohibition against the payment of educational assistance allowance for any day of absence in excess of 30 days in a 12-month period. We support this proposal, which conforms to our formulation of the Commission's recommendation in this area, provided the effectiveness of monthly self-certification by eligible veterans is confirmed by our current study and the VA is given the authority to require such self-certification as set forth in section 7 of this measure. If this section is enacted, we will be able to remove our current regulatory requirements regarding effective dates and enrollment periods. Moreover, we would then give consideration to relying on monthly self-certification by veterans of continued pursuit of training in lieu of school attendance reporting.

Section 6 would amend section 1791 of title 38 to repeal the limit on the number of changes of program a veteran-student may make. The VA would be required to approve a second or subsequent program change only if the individual submits to counseling services beyond the initial change of program. We are opposed to the total repeal of the current limitation on the number of program changes. We believe these limitations, first instituted in response to abuses of the VA educational assistance programs during the administration of the World War II GI Bill, remain an important safeguard. We recommend retaining the limits on changes of program and requiring VA-approved counseling for changes of program beyond the initial change.

Section 7 would amend section 1780 of title 38 to provide that all education programs administered by the VA may require monthly self-certification verifying pursuit of training for both degree and nondegree students. The VA is committed to maintaining the integrity of the GI Bill while administering the disbursement of public funds to eligible persons in the most efficient and economical manner. While we endorse this provision, we note that our use of such authority will depend on the results of our current study of chapter 30 self-certification.

Section 8 of the bill would provide that difficulties beyond the control of the student in making or changing child-care arrangements is a mitigating circumstance to excuse an individual who has withdrawn from a course. As noted in our response to the Commission's recommendation on this issue, we agree that changes in child-care arrangements can and should be considered a mitigating circumstance for course withdrawal. However, since current VA policy and procedure already reflect this posture, we find this legislative proposal unnecessary. Noting the concern of the Commission, as well as the apparent concern of this Committee on this issue, we would here reiterate our intent to amend our mitigating-circumstances regulation in the manner suggested in our interim report so as to confirm and clarify our existing policy.

Section 9 of the bill provides that the effective date of a benefit adjustment based on a change in a student's course load or other change would be the date the change occurred, instead of the end of the month in which the change occurred. We support this provision in the context of implementation of the self-certification procedure as discussed in our comments on section 7 of this bill.

Finally, section 10 of this measure would make two changes in the Montgomery GI Bill Selected Reserve (chapter 106 of title 10) program. First, it would modify the criteria for determining waivers of the "two-year" rule and the "85-15" rule for certain courses provided under contract with the Department of Defense to include reservists training under chapter 106. We do not object to this statutory clarification of congressional intent. Second, section 10 would make chapter 106 trainees eligible for the work-study program. The VA does not support this proposal. As pointed out by the Commission in its report, the effectiveness of the work-study program in its current form is suffering from a general lack of participant interest. Thus, adding more eligible individual's who are already gainfully employed does not appear to be a solution.

S. 1003

Mr. Chairman, you have also asked for our comments on S. 1003, the proposed "Veterans' Educational Assistance Act of 1989," which you introduced on our behalf on May 16, 1989. This bill would make a number of amendments to the VA education and vocational rehabilitation programs to facilitate the administration of the programs and make certain provisions more equitable.

Section 101 of this measure would make the pilot program of vocational training for certain pension recipients voluntary and provide participants a trial work period. These changes are designed to improve both program participation and results.

Section 102 would amend the Montgomery GI Bill (MGIB) secondary school completion requirements by eliminating the reference to an equivalency certificate. Instead, this eligibility requirement would be broadened so that an individual would have to either have completed the requirements for a secondary school diploma or have certain alternate school credentials accepted by the Armed Forces, pursuant to regulations promulgated by the Secretary of the military department concerned. We believe that the secondary school requirement was intended to assist the military in obtaining high caliber personnel, and, therefore, the requirement should conform to the standards acceptable to the Armed Forces.

Section 103 would allow a serviceperson 14 days following initial entry on active duty within which to elect not to participate in the MGIB-Active Duty program. Current statutory provisions do not clearly state how much time an individual actually has after entry on active duty to make the election.

Section 104 would make the program of independent living services for service-disabled veterans a permanent part of chapter 31. Enactment of this proposal would enable severely-disabled veterans for whom vocational rehabilitation is not currently feasible to live more independent lives.

Sections 105 and 106 would make two amendments to the title 38 "work-study" program. First, section 105 would eliminate the authority to make work-study advance payments. Overpayments in the work-study program create liability for thousands of new debtors each year whose debts cannot feasibly be collected by offset or enforced collection. This provision would virtually eliminate accounts receivable in this program. Next, section 106 would make service-disabled veterans eligible for work-study benefits if they are pursuing training or attending school at a half-time or higher rate under chapter 31 or under chapter 34 (if the veteran's service-connected disability is rated at 50 percent or more disabling). This would provide these service-disabled veterans an additional resource in pursuing training.

Title II of S. 1003 contains various administrative provisions. The first of these would remove the VA's authority to make advance payments of chapter 31 rehabilitation subsistence allowances. These advance payments are intended to assist veterans in paying a portion of tuition and fees which many schools require prior to the commencement of training and to meet living expenses during initial periods of training. In view of the fact, however, that the VA pays all of a chapter 31 participant's training costs and such participants are eligible to receive advances from the Revolving Fund, there is little need for the current statutory authorization for advance payments.

A second provision would permit the VA to accept a school's certification as justification for renewal of an individual's education benefits following termination for unsatisfactory conduct or progress. The proposal's application would be limited to resumption of the same program at the same educational institution which reported the unsatisfactory progress. Another administrative provision would streamline measurement of combined clock-hour, credit-hour course pursuit. The proposal would greatly simplify course measurement determinations under our education benefit programs, and yield more readily understandable and consistent results.

Finally, title II of this measure contains technical and clerical amendments to title 38 which would: correct an erroneous chapter 30 reference to a chapter 36 provision for computing less than half-time training; conform the entitlement charge to the rate of benefit payment for on-job/apprenticeship training under chapter 32 when less than 120 hours are worked in a month; delete an outdated reference to prepayment allowances; and add chapter 30 to the list of chapters under which the VA can suspend benefits in certain situations.

Mr. Chairman, we appreciate your introduction of our bill, and urge the Committee's favorable action on S. 1003.

Amendment to S. 190

You have also asked for our comments on Senator Matsunaga's amendment, in the nature of a substitute, to S. 190, a bill to permit the concurrent receipt of disability compensation and military retired pay. Under current law, a military retiree must waive retired pay in order to receive VA compensation. As amended, S. 190 would remove this restriction, but would require a reduction in retirement pay in an amount equal to 100% less the veteran's percentage of disability multiplied by the compensation payable. The amendment would only remove the restriction for those who retire based on age or length-of-service and not for disability retirees.

VA does not support this amendment.

Currently, section 3104(a)(1) of title 38 prohibits, among other things, the award of VA disability compensation concurrently with military retirement pay except to the extent that retirement pay is waived under other provisions of law. Under 38 U.S.C. § 3105, a retired servicemember may waive part or all of retirement pay to receive instead an equal amount of VA compensation or pension. Waiver is often advantageous to the veteran because VA benefits, unlike military retirement, are not subject to income taxes. A prohibition against dual awards has existed in the law since 1891 and was adopted both to restrain spending and to prevent double compensation to retirees for the same period of military service.

Proponents of this and similar legislation make comparisons between military retirees entitled to compensation because of disabilities incurred during their military service and civil service retirees similarly entitled to compensation for service-connected disability. They point out that a civilian employee who has applied his or her military service as a credit toward civil service retirement can draw longevity and age-based civil service retirement and VA disability compensation at the same time, based on the same period of service. Thus, they conclude that a veteran entitled to longevity-based military retirement and VA compensation arising out of a period of service credited toward the military retirement should, as a matter of principle, be entitled to draw both benefits concurrently. We believe such comparisons to be inappropriate.

32.

A more apt analogy is that of a person eligible both for civil service retirement payments based on age and length of service and for civil service retirement payments based on disability. The Federal Employees Compensation Act (FECA), which compensates United States civil servants for disability resulting from employment, is subject to a specific prohibition on such dual compensation. Affected employees are required to elect the benefits desired. While it is true that a Government employee may receive FECA benefits concurrently with military retirement pay, there is, for the most part, no connection between the military service for which military retirement is paid and the civilian service out of which the FECA benefits arose. The same may not be said, however, as to VA disability compensation and military retirement pay--both benefits arise from the same service.

Similarly, concurrent benefits are not payable to eligible persons based upon age and disability under the Social Security Act. Upon attainment of age 65, a beneficiary's disability benefits automatically become old-age benefits. A disabled, elderly person cannot become eligible for both disability and old-age benefits based upon the same circumstances of employment.

VA disability compensation is a benefit based on the circumstances of a veteran's military service, as is military retirement pay. Allowing VA compensation payments to be paid in addition to military retirement payments based upon the same period of service would be equivalent to permitting dual longevity-based and disability-based military retirement. Thus, the law appropriately requires waiver of one to receive the other.

This issue has been thoroughly addressed in the Federal courts. In Absher v. United States, the plaintiffs asserted that the bar to dual compensation unconstitutionally denied them equal protection of the law. The Claims Court disagreed, holding that the circumstances of military retirees and civilian retirees are very different, and that there was a rational basis for Congress to make different provisions for the two groups. The United States Court of Appeals for the Federal Circuit affirmed, holding that the balance Congress struck is not only rational, but also bears a demonstrably fair and substantial relation to legitimate legislative objectives.

For nearly 100 years Congress has held that military retirement pay and VA disability compensation may not be paid concurrently. The provision for waiver of retirement pay in order to receive compensation allows a military retiree to choose whichever benefit is to his or her advantage. The enactment of this amendment would reverse the longstanding and prudent principle that a person should not receive duplicate benefits based on the same circumstances of employment or military service. The provisions of the bill which would limit its application to those retired based on age and/or length of service, and which would reduce retirement benefits using a so-called "inverse" formula would not serve to overcome this basic problem.

In view of the foregoing, VA opposes enactment of S. 190 in either its original form or as amended.

STATEMENT OF

LIEUTENANT GENERAL DONALD W. JONES, USA

DEPUTY ASSISTANT SECRETARY OF DEFENSE

(MILITARY MANPOWER & PERSONNEL POLICY)

BEFORE THE

VETERANS AFFAIRS COMMITTEE

UNITED STATES SENATE

JUNE 9, 1989

WITNESS STATEMENT - GENERAL JONES

Mr. Chairman and Members of the Committee

I am Lieutenant General Donald W. Jones, the Deputy Assistant Secretary of Defense for Military Manpower and Personnel Policy in the Office of the Secretary of Defense. It is a pleasure to appear before the Committee and provide the views of the Department of Defense on S. 190, a bill "To amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without reduction in the amount of the compensation and retired pay," as well as S.563, a bill "To amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the armed forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay." Legislation derived from S. 563 is was submitted as an amendment to S. 190.

As stated in the title, S. 190 would permit the payment of military retired pay plus disability compensation from the Department of Veterans Affairs without a dollar-for-dollar waiver of retired pay, as is now required under the provisions of section 3104 and 3105 of title 38, United States Code. However, S. 563 would limit the duplication of payment of retired pay and VA disability compensation based on a sliding scale depending on the VA-awarded compensation. For example if VA rates a veteran as 50 percent disabled, retired pay would be reduced by 50 percent of the VA disability compensation paid. Similar proportional limitations would be effective for those rated by VA from 10 percent to total disability.

The matter of receiving both retired pay and VA compensation has a long history of public policy. Since 1891, the dual receipt of both pay items has been prohibited, notwithstanding various bills that have proposed removing the bar. In each instance the policy that the dual award of retired pay and VA compensation cannot occur without an offsetting waiver was reconfirmed. Since the restriction was codified in 1958 at section 3104 of title 38, United States Code, it has remained basically unaltered and bars the dual payments based on the same period and condition of service.

The policy of not permitting duplicative benefits for the same period of service to the Government is not unique to receipt of military retired pay and VA compensation only. A similar offset feature is part of the Survivor Benefit Plan for members of the Uniformed Services. Similarly, in situations where a survivor of a military member is also entitled to Dependency and Indemnity Compensation from the VA, an offset is required, and a social security offset also applies that is equal to the widow or widower social security benefit attributable to military service. Both of these offset features reflect the basis of the benefit award is on the same period or service of a member. A similar restriction also applies to civil service workers' disability compensation programs and civil service retirement or survivor payments, where both payments may not be awarded for the same period of employee service. Almost every retirement system bars the paying of benefits based on years of service in addition to disability retired pay. We believe this policy, both public and private, is reasonable and prudent.

Recently, the restriction embodied in sections 3104 and 3105 of title 38, United States Code, was reviewed by the Federal Claims Court in the case of Absher v. United States (9 Cl. Ct. 223, aff'd 805 F. 2d 1025 (Fed. Cir. 1986), cert. denied, 55 U.S.L.W. 3730 (1987)). The Claims Court held, and the Court of Appeals for the Federal Circuit agreed, that the current law was reasonable with regard to the need of waiving military retired pay as a precondition for eligibility for VA disability compensation. This judicial scrutiny reaffirmed the soundness of present policy.

The Department of Defense supports the current prohibition. We believe that it would be inappropriate to pay two Federal benefits intended to compensate individuals for the same period or condition of service. We believe it is reasonable to require a waiver of retired pay in an amount equal to the VA compensation as a precondition for award of VA compensation.

With regard to both bills, we believe they would create inequitable situations and would benefit only those members who are retired for nondisability reasons and later receive a service-connected disability rating. Those who have been wounded and disabled in combat who could no longer perform their military duties and are retired with a disabling condition prior to the 20 years of service point would be excluded from the benefit proposed. The men and women who bore the brunt of service during wartime are excluded. Only those who retired after 20 years without disability at the time of retirement would be covered. We do not believe that is equitable or reasonable.

The Career Compensation Act of 1949 made significant changes to the military disability retirement system and brought a degree of uniformity to that system which has remained basically unchanged. During consideration of that legislation the fact was acknowledged that a benefit was offered from the VA for service-connected disabilities resulting from military service. The existence of the dollar-for-dollar waiver of retired pay continued the longstanding policy of not providing pyramiding benefits based on the same periods or conditions of service. As such, the liability of the Government is limited and duplicative payments are not made.

Integration of VA disability compensation and military retired pay reflects a practice common among retirement systems. No retirement benefit system pays both nondisability and disability benefits concurrently. Most allow for compensation calculated under a disability system or a years-of-service system. The member/employee is entitled to the highest amount resulting from the two calculations. We do not believe it would be equitable for the military retirement system to be expanded in the manner proposed.

Recent data indicate there are 1.5 million retired military members. Of that total, 426,614 are waiving part or all of their retired pay to receive VA compensation; 317,524 are partial waivers and 109,090 are full waivers. Of those members waiving retired pay, 137,018 were retired from the military with a disability, while 289,596 were retired for nondisability reasons. Officers waive retired pay in 89,729 instances, while 327,730 retired enlisted members have a waiver in effect, as do 9,127 retired reservists. Within the nondisabled retiree population waiving retired pay, 271,805 have a partial waiver and 17,791 have a full waiver. Among the disabled retirees, 45,719 are waiving part of their retired pay, while 91,299 have a full waiver applying. The annual amount waived is about $1.47 billion as of September 30, 1987; $707 million is waived by disabled retirees and $762 million by nondisabled retirees. These data provide a summary background on the population and increased outlay that S. 190 and S. 563 would impact.

Whether or not amended to comport with S. 563, if the bill were enacted, there would be immediate increases in DoD appropriations, outlays from the Military Retirement Fund, and in amortization payments of the unfunded liability from the General Fund. Because of the sliding payment scale clause in S. 563, precise cost estimates are difficult to determine. However, actuarial projections have provided the maximum and minimum increases that can be expected for the DoD. These projections indicate a maximum increase in the outlays from the Fund to be $1.7 billion, growing to $2.1 billion from fiscal years 1989 through 1993. To cover these increased outlays, the DoD appropriations would have to be increased by $1.6 billion to $1.8 billion over the same fiscal years.

Budgetary Increases from Enactment of
S. 190 and S. 563
($ Billions)

	Outlays from Military Retirement Fund		DoD Appropriations	
	Max	Min	Max	Min
FY89	$1.7	$1.1	$1.6	$1.0
90	1.8	1.1	1.7	1.1
91	1.9	1.2	1.7	1.1
92	2.0	1.2	1.8	1.1
93	2.1	1.3	1.8	1.1

In view of the longstanding precedent prohibiting the dual award of both retired pay and VA compensation and the projected increases would occur in both outlays from the Military Retirement Fund and in the funding of the DoD budget.

TESTIMONY OF
JANET D. STEIGER, CHAIRMAN
COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS
JUNE 9, 1989

Mr. Chairman, members of the Committee, distinguished guests and visitors, as Chairman of the Commission to Assess Veterans' Education Policy, I am delighted to be with you this afternoon to present testimony on pending legislation, including S. 1092, the proposed "Veterans' Education Policy Improvements Act", which was introduced by the Chairman of this Committee, Senator Cranston, on June 1 and cosponsored by Senators Murkowski and Matsunaga.

As this Committee is aware, the Commission to Assess Veterans' Education Policy was established by section 320 of Public Law 99-576 and charged with making recommendations to the Congress and to the Department of Veterans Affairs on matters relating to the administration of VA educational assistance programs. The Commission submitted its first report on August 29, 1988, eighteen months after it was formally constituted. On April 27, the Department submitted its response to our report. The Commission is now in the process of preparing its final report to the Congress and the Department which is due on July 27. In this connection, the Commission met on May 22 to consider the Department's response and our reply.

I will not go over point by point the recommendations in our first report nor in the Commission's reply to VA's response. Rather, as requested, my testimony will focus on the legislative items at issue and a number of new or outstanding concerns identified by the Commission. Nonetheless, Mr. Chairman, I am prepared to discuss and answer any questions the Committee may have regarding the Commission's recommendations, VA's response, and the anticipated Commission reply.

Before getting to specific issues, I want to take this opportunity to express my deepest gratitude to all those who participated in the Commission's activities and contributed to making our mission as successful as it has been. I am delighted that, prior to the Commission submitting its final report, legislation is already introduced in this body.

The Department of Veterans Affairs deserves a great deal of credit. The support and cooperation the Commission has enjoyed has never been less than outstanding. The participation and contributions of so many were invaluable to this undertaking. Beyond that, however, the latitude, flexibility, and foresight that the Department has exhibited throughout is demonstrated in its response to our recommendations.

Likewise, the members of the staff of this Committee -- particularly Darryl Kehrer, Chris Yoder, and Mike Cuddy -- were extremely helpful. Their participation in our sessions added greatly to our deliberations.

I would like at this point to turn to comments on S. 1092. The Commission's recommendations support its enactment. We also support continued administrative actions carrying out other recommendations that do not necessarily require legislation. A number of our recommendations -- such as those dealing with training and support services, automated data processing, publications, and adequate staffing -- are issues relating primarily to appropriations. Recognizing the very difficult funding situation in which VA so often finds itself, the Commission urges the Department, this Committee, others in the Congress, and the veterans community to continue to support adequate funding levels for the Department, as well as aggressive administrative actions.

First, provisions of S. 1092 would make eligible for VA's work-study program individuals training under chapters 35 and 106. This change is consistent with the Commission's recommendations. At our May 22 meeting, a suggestion was made that if chapter 106 eligibility is added, the list of authorized activities for work-study students should be expanded to include by specific reference work associated with various guard and reserve units that involves administration of chapter 106 GI Bill benefits. The Commission will include this suggestion in its final report, and we offer it at this time for the Committee's consideration.

Furthermore, it may be that if individuals other than veterans are made eligible for the work study program, the law should reflect preferences for specific categories of eligibles. For example, if a service-connected veteran, a non disabled veteran, and a non-veteran dependent are in consideration for a single work-study position, the law could reflect specific priorities. The Commission has no recommendation in this area, but I raise it for your attention.

At its May 22 meeting, Mr. Chairman, the Commission decided, although it recognizes VA's significant budgetary constraints, to stand behind its recommendation for a ten-step approach for wages under the work-study program. As pointed out in our August report, the issue in the case of VA's work-study program is not always having the money to create the positions, but rather finding individuals interested in filling the positions that are available.

The Commission's recommendations in this area attempted to resolve situations in which an applicable State minimum wage would exceed the Federal minimum wage, and we are pleased that S. 1092 would provide that the higher of the two be paid. However, the Commission is still concerned that this proposal would do little to help the work-study student who is placed in an off-campus position and, specifically, in a VA Regional Office. The Commission is concerned that recruiting for these positions is made more difficult by commuting costs. Perhaps some consideration should be given to incorporating a transportation allowance under certain conditions.

Second, the Commission's position supports the provisions of S. 1092 that would add chapter 31 students to those on whose behalf an educational institution is paid a reporting fee. Beyond this, the Commission has decided to stand firm in its support for an increase in and a scale approach to these fees. We recognize that this is again a budget issue, but point out the significant period of time that has elapsed since the last increase in reporting fees and that the proposal set forth in our first report was an example of how such a scale could be structured and not necessarily the specific scale that would need to be enacted.

With respect to the specific provisions in section 4 of S. 1092, I feel compelled to point out that here is another example of why the educational assistance provisions of title 38 should be rewritten. On its face, it appears that no reporting fee is paid on behalf of students enrolled under chapters 30, 32, or 106. Only by cross references in those chapters do the fee and the reporting requirements of section 1787 apply.

The rewriting of title 38 was an issue of some discussion at our May 22 meeting. As you know, in response to the Commission's recommendation that the law be rewritten to provide for better organization, clarity, readability, and understanding, VA has taken the position that its limited resources could be put to more effective use. In its final report, the Commission will stress again the need for a rewrite -- particularly in light of the December 31, 1989, termination date for the chapter 34 program. We will also point out that this is not a responsibility that rests solely with the Department. Indeed, the Congress has the major role as the ultimate source of legislation. Perhaps, the Committees in the House and Senate could take the lead in developing a first draft of a rewrite. The Commission recognizes that this is not an easy task nor one lightly undertaken. However, as VA itself points out at page 8 of its response, "the legislation under which veterans' education benefits are paid is a patchwork accretion of individual acts and amendments enacted over a period of years" and that "VA policies and procedures tend to show the same pattern of patchwork accretions as the governing legislation they implement." Mr. Chairman, the Commission reiterates its position that the patchwork pattern must be rewoven and hopes that the Congress will take the lead in this initiative.

Third, the Commission wants to recognize the breakthrough represented by the Department's position on the elimination of absence reporting for non-college degree programs. This is indeed a leap for VA to have made, and the Commission believes it will do a great deal to bring the Department more in line with today's educational realities and to assist veterans training in these types of programs. The Commission's report fully supports elimination of this distinction between degree and non degree programs.

Fourth, with respect to the elimination of the number of changes of program a veteran or eligible person may have, I note that this is one of the few areas in which the Department and the Commission continue to be in disagreement. The Commission, Mr. Chairman, stands behind its recommendations in its first report which support enactment of legislation along the lines set forth in S. 1092.

Basically, our recommendation is rooted in the belief that the fewer times VA is called upon to make a judgmental decision, the better it is for all concerned. This provision is a prime example of an antiquated restriction that the Commission believes can be safely eliminated. According to the

Department itself, in 1988, less than three percent of all trainees became subject to the change in program provisions. The Commission does not believe that this constitutes a major threat of abuse. Nor does it believe that the restriction presents a significant deterrent effect. Quite conversely, the Commission believes that when balancing the chance that a veteran may use 36 months of entitlement without achieving a goal in the absence of this restriction versus the chance that a veteran may be denied use of benefits because it cannot be demonstrated that pursuit of a third program was discontinued by circumstances beyond the veteran's control, the former is preferable. This is especially true when we are dealing with a program in which the veteran has made a financial commitment.

I want to stress that the Commission's recommendation on this issue was one that we developed based on conversations with Department personnel in various regional offices. They felt strongly, as does the Commission, that the current law restriction was time-consuming, discriminatory, and needed to be eliminated.

Fifth, with respect to the provisions that would establish a "self-certification/bar to benefits" approach under all the various educational assistance programs as the Commission recommended, at our May 22 meeting we were advised that VA's study of this approach will be completed in September and that preliminary results are showing this is an extremely effective tool in preventing overpayments and abuses. I would point out, however, that the Commission was and continues to be concerned that this approach not be implemented until it is satisfactorily demonstrated that VA has the necessary resources -- in personnel and in computers -- to handle the accompanying increase in workload.

Sixth, the Commission is pleased that S. 1092 would specifically add child care difficulties to the list of circumstances that VA may consider mitigating for purposes of determining whether an overpayment should be established when a student drops or discontinues course work. The Department supported the Commission's recommendation in this area and had been prepared to proceed on this matter through revisions in regulations.

Finally, with respect to the provision in S. 1092 that would provide that the effective date of reductions in awards based on a reduction in training time would be the date of the event as opposed to the last day of the month in which the reduction in training time occurred, I note the Commission's and the Department's support for this recommendation when coupled with a self-certification/bar to benefits approach. Again, however, this is another example of why the educational assistance provisions should be written. Logically, the effective date provisions governing a program should be closely associated with the legislative authority -- not almost a hundred pages apart in the Code.

Mr. Chairman, you also invited comments on S. 1003, the proposed "Veterans' Educational Assistance Improvements Act of 1989", which was introduced at the request of the Administration on May 16. I would defer to others on the issues in this measure since none of those addressed by this bill came before the Commission. Basically, it appears that much of this measure would codify the way the Department operates today based on regulations, circulars, and other provisions in its operating manuals. I note, however, that the provisions of section 203 dealing with clock-hour measurement of certain unit courses of subjects creditable toward a standard college degree, strengthen arguments for a change in the very complex and cumbersome manner in which courses are measured for purposes of the GI Bill.

Before closing, I would like to raise for the Committee's attention one particular item of concern to the Commission which is not addressed in the pending legislation.

With respect to measurement, the Commission is greatly encouraged by VA's response as set forth in its April report. Again, the Department has taken a positive and progressive posture on this issue and deserves to be congratulated. The Commission, in its reply, will encourage VA to pursue actively and seriously the study it has proposed to initiate on the measurement issue and will endorse its objectives. We will urge, however, that VA not wait until its final report -- due in late 1990 -- to address this issue, but that a firm timetable and protocol for the study be established now. Indeed, it may be appropriate for legislation to be introduced in the Congress along the lines envisioned by the Department's response to facilitate the full consideration of this proposal, as well as a complete debate on its merits within the education community.

Mr. Chairman, there are also a number of new issues addressed at our May 22 meeting that will be examined in detail in our final report.

o Rate of Benefits for Training while on Active Duty: Under current law, GI Bill benefits for individuals training while on active duty are limited to the rate of tuition and fees or the full-time rate, whichever is the lesser. The Commission believes that this limitation may have a deleterious effect on the Montgomery GI Bill in terms of its use as a retention tool and that, unless a good justification for the continued application of this restriction can be demonstrated, it should be repealed.

o Enrollment in Chapter 30 as a Retention Tool: The Commission discussed and found merit in an approach that would permit individuals who had declined to participate in the chapter 30 program upon enlistment to establish eligibility for the program by re-enlisting or extending a commitment to military service. This would permit the individual service branches to make a sign-up opportunity available to a service member who had completed his or her first obligated period of service upon extension of the military commitment. The young man or woman first entering the service may not realize the value of this important benefit; years later, the importance of education may be more easily seen. In return, such an opportunity might allow the military to retain the services of a trained and valuable soldier.

o Fee-Basis Medical Care for Chapter 31 Trainees: A number of issues relating to the administration of fee-basis medical care for chapter 31 trainees are being identified for inclusion in our final report. These primarily deal with the continued difficulties in communications between the various divisions of the Department involved in this program and will be set forth in detail in our reply together with suggestions for improvements.

o Accreditation as a Threshold for Approval: The Commission discussed this issue at some length. It is a most difficult one, and we were not able to reach any consensus for change. As now framed, the question is whether institutions which offer degree programs should be required to be accredited before they may apply to be approved for GI Bill purposes. The Commission has no recommendation in this area, but raises it as a continued concern and matter for discussion within the educational community.

o Restoration of Pay Reductions under the Chapter 30 Program: Recent legislation provided that certain individuals who die while on active duty may have restored to their estate the pay reductions made as a result of participation in the Montgomery GI Bill. The Commission has continued concerns in this area in two respects: First, the requirement for the deceased individual to have obtained a high school diploma or equivalency prior to death in order to be eligible for the pay restoration; second, the case of an individual who is discharged from the military as a result of a service-connected injury and who subsequently dies of service-connected causes within the ten-year delimiting period Both of these concerns will be discussed in our final report.

o Effect of the Computer Matching and Privacy Protection Act: Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988, may have a significant and detrimental impact on VA's administration of educational assistance programs, particularly under the chapter 106 program. The Commission will urge that the application of this new law be carefully examined and adjusted appropriately to facilitate timely and accurate delivery of benefits.

o The So-called "85/15 Ratio" and the "Two-Year Rule": Issues relating to the applicability of these two requirements were discussed by the Commission. Our final report will outline the concerns that were raised for further consideration in appropriate forums.

Mr. Chairman, this concludes my testimony. Again, I want to thank you and all the members of this Committee for your support and interest in the Commission's work. Likewise, I want to extend my appreciation to the Department of Veterans Affairs and to all those who participated in this endeavor. My hope is that what we have tried to do will result in improved benefits and services to our Nation's veterans.

MATERIAL FOR THE RECORD SUBMITTED BY
JANET D. STEIGER, CHAIRMAN
COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

QUESTION: On page 6 of the written statement of Dr. John Davis of North Carolina, he proposes that accredited colleges which offer both non-college degree and institution of higher learning types of courses be allowed to measure and certify both types of courses on a credit hour basis. Please review this proposal and submit for the record your recommendations on it.

RESPONSE: The Commission is gratified by Dr. Davis' very kind assessment of its efforts. We certainly understand the concerns and frustrations of Dr. Davis and others in the educational community who must deal with the very difficult issue of "mixed measurement". It is indeed one of the most complex aspects of measurement of programs for purposes of VA educational assistance.

In our first report, the Commission made at least two recommendations that would address these concerns. First, we recommended that arbitrary distinctions between non-college degree (NCD) and college degree programs be eliminated. Second, we offered an alternative measurement proposal that included, in part, reliance on the institutional standard. Both of these elements of our report would tend to support enactment of legislation along the lines envisioned by Dr. Davis.

The Department of Veterans Affairs, in its response to our report, has concurred in our recommendation regarding distinctions between NCD- and degree- level training. Regarding measurement, VA has also offered an alternative along the lines of the following for consideration and discussion:

> Eliminate distinctions between rates of payment based on the mode of delivery of the instruction, i.e., eliminate the payment differential between independent study, other non-traditional modes of study, and resident training. In addition, extend payment for independent study to those courses not leading to a standard college degree. In conjunction with this, the contracting provisions (whereby an institution contracts with some other entity to provide instruction) should be strengthened, and the standard class sessions requirements should be eliminated.

The Department proposes to study this alternative to the present measurement system. The results of the study would be included in the Secretary's final report due in 1990. We understand that this study would be carried out in connection with the task force now being established to address the standardization issues, as well as the distinctions between college and non-college level training. The very complicated and unwieldy issue of "mixed measurement" raised by Dr. Davis would be significantly ameliorated by adoption of a policy along the lines of VA's proposal.

The Commission applauds VA for its forward-looking position and is greatly encouraged by its commitment to examine modifications along the lines of VA's alternative proposal. That VA would even consider proposals along these lines is a major step forward that would do much to bring VA policies into line with realities in the education community.

We will recommend in our reply that VA move as expeditiously as possible on this matter, establishing a firm timetable and protocol for the study, so that the results of its examination may be available well in advance of its 1990 report. Indeed, it may be appropriate for legislation to be introduced in the Congress along the lines envisioned by the Department's response to facilitate the full consideration of this proposal, as well as a complete debate on its merits within the education community.

Nevertheless, in light of VA's commitment to consider a new measurement policy along the lines set forth in its response and in the interest of standardization and simplification of VA educational assistance programs generally -- other aspects strongly supported by the Commission -- moving forward at this time with a narrow proposal to deal with the mixed measurement issue, which could result in another piecemeal approach to the problem, does not seem to be desirable.

STATEMENT OF RICHARD S. CHRISTIAN, DEPUTY DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE
JUNE 9, 1989

Mr. Chairman and Members of the Committee:

The American Legion is appreciative of this opportunity to share its views with you on legislation providing among other things, improvements in disability compensation, educational assistance benefits, and nonservice-connected pension benefits to certain hospitalized veterans.

S. 13, the "Veterans Benefits and Health Care Act of 1989", proposes in section 102 to increase the current rates of disability compensation, dependency and indemnity compensation and related benefits by the same percentage that benefit amounts payable to Social Security beneficiaries, under title II of the Social Security Act, are to be increased effective December 1, 1989. In the computation of increased rates for disability compensation and dependency and indemnity compensation, amounts of $0.50 are to be rounded up to the next higher dollar amount.

The bill would also allow the Secretary of Veterans Affairs to adjust administratively, consistent with the above mentioned increase, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857, who are not in receipt of compensation payable pursuant to Chapter 11 of title 38, United States Code.

Section 314 of title 38, United States Code, currently provides for payments of disability compensation in amounts ranging from $73 to $1,468 monthly to those veterans with service-connected disabilities rated from ten percent to one hundred percent or totally disabling. Higher rates of special monthly compensation are payable for certain multiple disabilities evaluated in excess of one hundred percent.

An annual clothing allowance of $395 is authorized under section 362 of the title to each veteran who, because of a compensable disability, wears or uses a prosthesis or orthopedic appliance or appliances which the Secretary determines to wear out or tear the clothing of such veteran.

In addition to the proposed increase in the clothing allowance, section 111 of this measure would expand the eligibility criteria to include a veteran who uses medication which has been prescribed for a service-connected skin condition, and the Secretary determines stains or otherwise damages such veteran's clothing.

Dependency and indemnity compensation (DIC) is payable under section 411(a) of title 38, United States Code, to the surviving spouse of a service person whose death occurs while on active duty, active duty for training, or inactive duty training, or a veteran who dies of a service-connected disability. Monthly benefits are based upon the military pay grade of the individual on whose service-connected death entitlement is attributed. These pay grades range from E-1 through 0-10, and the current monthly benefits under the DIC program range from $539 to $1,381.

This section also provides that where there is an eligible child or children of the veteran, these rates are to be increased by $62 for each child. Subsections (c) and (d) of section 411 relate to additional monthly benefits for surviving spouses who are determined to be in need of aid and attendance or housebound benefits. The current rates are $161 and $79 respectively.

Dependency and indemnity compensation to children of a deceased veteran is payable, under section 413 of the title, where there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, in equal shares at the monthly rates of: (1) one child, $271; (2) two children, $391; (3) three children, $505; and

(4) more than three children, $505, plus $100 for each child in excess of three.

Section 414 of the title provides that the monthly payment of dependency and indemnity compensation to a child who has attained the age of eighteen and who while under such age, became permanently incapable of self-support shall be increased by $161. It also provides that the monthly dependency and indemnity compensation payable to a surviving spouse shall be increased by $271 where there is a child who became permanently incapable of self-support prior to age eighteen. This section further provides that if monthly dependency and indemnity compensation is payable to a surviving spouse, and there is a child under the age of twenty-three who is pursuing an approved course of education, dependency and indemnity compensation shall be payable to such child in the amount of $138.

Mr. Chairman, we commend you for holding this timely hearing to consider legislation providing cost-of-living adjustments (COLAs) in both veterans' disability and survivor's dependency and indemnity compensation. These rates were last increased under Public Law 100-687, effective December 1, 1988. The American Legion is strongly supportive of annual adjustments in these disability and death benefits to allow those entitled to such benefits to keep pace with increasing costs of goods and services.

The Delegates to the 1988 National Convention of The American Legion adopted Resolutions No. 233 (IN) and 279 (IA) mandating support of legislation to provide annual cost-of-living adjustments (COLAs) to the rates of disability compensation and DIC, respectively, copies of which are attached. We believe that such COLAs should be at least consistent with the increases in the Consumer Price Index (CPI). Based upon available information, the rate of inflation for 1989 is projected to be in excess of 4.1%. The American Legion is prepared to support the enactment of a COLA which is equal to or exceeds the percentage by which benefits payable under the Social Security Act are adjusted.

With respect to the proposed expansion of the eligibility criteria for payment of the annual clothing allowance under section 362 of the title, the Delegates to our 1988 National Convention adopted Resolution No. 284 (IA) which mandates The American Legion to support legislation to expand the criteria to include not only veterans who require topical medication for service-connected skin conditions as called for in this measure, but also those veterans whose service-connected disabilities result in urinary or fecal incontinence and require the use of appliances for colostomies, ileostomies, drainage from wounds or infected areas, or the use of an apparatus holding bandages. Therefore, we support this proposal, and request that consideration be given to even further expanding the criteria to include those conditions set forth in Resolution No. 284.

Section 102 of this measure would increase by 13.8 percent the subsistence allowance to veterans pursuing a program of vocational rehabilitation, under Chapter 31, United States Code.

Mr. Chairman, the subsistence allowances for such service disabled veterans were last adjusted under Public Law 98-543, the "Veterans Benefits Improvement Act of 1984." The purpose of this allowance is to provide a reasonable measure of financial assistance to a service-connected disabled veteran while he or she is pursuing a program of rehabilitation to overcome the occupational handicap of their disability. It is necessary that these allowances be periodically adjusted to reflect the rise in the cost-of-living. The fact that these subsistence rates have not been adjusted in nearly 5 years has placed an added economic burden on disabled veterans in the program. The American Legion strongly supports the proposed 13.8 percent increase in this benefit.

Section 103 of this measure would also increase by 13.8 percent the educational assistance allowances under Chapter 35 of title 38, United States Code, for survivors and dependents of service persons whose death occurred in service, or veterans who died of a service-connected disability, or who have a total service-connected disability, permanent in nature.

The purpose of this program is twofold. It is meant to afford educational opportunities to children whose education would otherwise be impeded or interrupted by reason of the veteran's service-connected disability or death. It is also meant to assist surviving spouses of veterans who die of service-connected disabilities and spouses of veterans with a total service-connected disability, permanent in nature, in preparing to support themselves and their families at a standard of living which the veteran, but for the service-connected disability or death, could have expected to provide for the family.

The educational assistance rates for eligible individuals under Chapter 35 were last increased under Public Law 98-543 which was enacted nearly five years ago. This fact has made it increasingly difficult for many to either enter or continue their programs of education or training, and to achieve the goals for which this program was intended within the applicable time frame. The American Legion believes the proposed increase in the educational assistance rates is important and that they must be periodically increased to reflect the increases in the cost-of-living and the costs of education and training.

Section 112 would amend section 3203 of title 38, United States Code, so as to increase the limit on the amount of nonservice-connected disability pension payable to veterans without dependents who are furnished hospital or nursing home care by the Department of Veterans Affairs to $105 monthly. This limitation would be effective after the eighth calendar month following admission for hospital care; after the end of the third month following admission for nursing home care; or after three additional calendar months following the time period applicable to hospital or nursing home care, if the veteran is being provided a prescribed program of rehabilitation. In addition, the Secretary of Veterans Affairs may extend the period during which a veteran's pension is not reduced while undergoing such rehabilitative services, if the veteran is likely to be discharged from the hospital within the period or shortly thereafter. Such extensions shall not exceed a period of two months. Successive extensions may be granted, but the total period of all extensions shall not exceed four months in connection with one hospitalization.

Currently under section 3203, no pension benefits in excess of $60 per month may be paid to a veteran who has neither spouse nor child and who is being provided hospital or nursing home care by VA after the end of the third calendar month following the month of admission for such care.

Mr. Chairman, this automatic reduction of the amount of improved or section 306 pension a hospitalized veteran may receive imposes, in our view, a severe and unnecessary financial hardship. The mere fact that the veteran is ill and requires hospitalization for an extended period does not materially lessen the need to meet ongoing personal financial obligations such as rent or mortgage payments, utilities, insurance, etc. Upon completion of treatment, they should be able to return to their domicile and resume their lives. The current limitation may seriously jeopardize the financial stability of a hospitalized veteran and to some degree, it may represent a disincentive to seeking needed medical care which might involve a prolonged period of hospitalization.

The proposed improvements should make it easier for such veterans to meet their ongoing financial obligations during the period of hospitalization. The American Legion is strongly supportive of this amendment.

Section 113 of the proposed legislation would amend section 2014(b) of title 38, United States Code, to extend the delimiting date for Veterans Readjustment Appointment Authority (VRA) to December 31, 1991.

Mr. Chairman, the current authority under which Vietnam Era veterans may be appointed into Federal employment is set to terminate on December 31, 1989. While The American Legion can support an extension of this very important program, as proposed, we believe very strongly that all veterans, regardless of when they served, should be able to take advantage of the VRA program. All veterans, whether during peacetime or wartime, have given a portion of their lives to their country. We believe that these veterans should derive certain rights from their military service. Accordingly, we believe that the Veterans Readjustment Appointment Authority should not have a delimiting date, but rather should be made permanent.

Section 121 of this measure would amend section 114 of title 38, United States Code to expand the authority of the Secretary of Veterans Affairs to enter into multi-year procurement contracts for the procurement of nonhealth-care supplies and services for VA departments and programs. The American Legion supports this amendment.

Mr. Chairman, S. 564 would provide that an Assistant Secretary of Veterans Affairs be responsible for monitoring and promoting the access of members of certain minority groups, including women veterans, to services and benefits furnished by the Department of Veterans Affairs.

The American Legion is aware that in recent years the Department's outreach programs and policies have not always adequately addressed the oftentimes differing and underserved needs of this nation's minority veterans. To ensure the necessary coordination of the Department's efforts with respect to improving outreach and counseling programs directed towards these groups, we believe that additional attention needs to be given thereto. However, we see no reason why the level at which and manner in which it is done cannot be worked out administratively.

Mr. Chairman, your letter of invitation requested comment on the recommendations of the Commission to Assess Veterans' Education Policy issued on August 29, 1988 and the Department of Veterans Affairs Interim Report on Veterans' Education Policy issued February 28, 1989. The American Legion has reviewed the Commission's recommendations and the Department's responses, and we wish to comment upon several of the issues addressed in these reports.

The Commission recommended that VA adopt in the long run a consolidated-region approach to the processing of all education claims including the approval and compliance functions and retain only an "education ombudsman" position in each of the 58 regional offices to maintain liaison with institutions, students, reserve units, and others as well as to handle problem situations.

The American Legion is concerned, in that we feel very strongly that this nation's veterans should be provided high quality service in an expeditious manner. The regional offices were established to serve the veterans within a particular state or part of a state. Over the years, there have been a number of proposals to consolidate or regionalize VA's claims processing and adjudication activities. Under the Commission's recommendation, there would be only minimal local assistance available in the form of an "education ombudsman" at each regional office as the responsibility for adjudicating and processing educational claims would be handled in some other part of the country. If this recommendation were to be implemented by VA, we believe it would serve as a precedent for a further move toward regionalization or centralization of regional office activities. The Delegates to The American Legion 1969 National Convention adopted Resolution No. 138 (ND) opposing any proposal to centralize or reassign veterans' claims processing services. A copy of Res. No. 138 is attached to this statement.

The Commission recommends the removal of the current restrictions on the number of changes in an educational program that may be approved. It also recommended that a counseling requirement be established for changes of program beyond an initial change.

The VA did not concur with the removal of these restrictions which permit one change of program with any subsequent change in program requiring prior VA authorization. In its response, VA noted this was one of the pricipal safeguards against abuse of the educational assistance programs. VA, however, expressed support for the recommendation to incorporate a counseling requirement in considering an individual's request for a change in educational program beyond an initial change.

The American Legion shares the Department's concern over the potential abuse which might occur if no restrictions were applicable to the number of times an individual could change his or her educational program. We believe that the current law, regulations, and instructions provide sufficient lattitude in allowing changes in a program of education or training. We likewise support the recommendation to incorporate a counseling requirement into determinations on a request for a change of program beyond an initial change.

The Commission also recommended the removal of certain distinctions between degree and non-college degree programs. VA, in its response, acknowledged that certain requirements apply only to non-college degree programs such as absence reporting, effective dates, enrollment periods, and school reporting requirements.

During the past several years, technical and vocational non-college degree (NCD) courses have become more academically oriented, to the point where veteran students enrolled in these classes many times sit side by side in the classroom with students enrolled in degree (IHL) programs in accredited institutions. It is obvious in this high tech era, most if not all technical careers such as electronics and computers require a much greater amount of classroom instruction rather than reliance on traditional hands-on OJT type training that once prevailed in technical and vocational training programs.

However, as a result of regulations promulgated many years ago, accredited degree granting institutions maintained standards of quality and attendance for each type of program which in effect discriminated against those veterans taking non-college degree courses by applying more stringent rules in the areas of course load measurement and attendance monitoring.

The American Legion believes that an inequity now exists in the application of regulations between these two types of programs and we would support the proposal to remove certain of these distinctions.

Another of the Commission's recommendations concerns the issue of whether continuing education courses should be approved for GI Bill benefits. It concluded that approval of any courses of this type should be consistent with the stated principle of the GI Bill that programs of education must lead to an educational, vocational, or professional goal. The Department concurs with this recommendation.

As noted in the Commission's discussion of its recommendation, the value or legitmacy of continuing education courses is not at issue. We share the view that the approval of such courses for veterans' educational assistance benefits would not be consistent with the stated purposes of the GI Bill program.

In its recommendations the Commission supported the retention of those provisions of law and regulations concerning the two-year rule, standards of progress, and the "85-15 rule." VA agreed with the Commission's position on the desirability of maintaining these provisions as a means to prevent abuses of the various educational assistance programs.

The two-year rule prohibits the VA from approving the enrollment of veterans and other eligible persons in courses of education or training which have not been in operation for at least two years. The standards of progress criteria require that institutions seeking to be approved for the enrollment of VA students demonstrate that adequate records are kept to show educational progress of each eligible veteran or person. Further, the institution's catalog or bulletin certified by the state approving agency submitted to VA must specifically state the progress requirements for graduation. Benefits are discontinued at any time the individual's conduct or progress is unsatisfactory under the prescribed standards and practices of the educational institution. The "85-15 rule" provides that veterans and other eligible persons may not be enrolled in any course in which more than 85 percent of the enrollees have all or part of their tuition, fees, or other charges paid to or for them by VA or by the educational institution.

The long-standing restrictions on the type of programs and courses which may be approved for veterans have been enacted over the years in response to instances of fraud and abuse by both institutions, training establishments, and individual veterans. The

American Legion has been strongly supportive of the Congress and VA's efforts to ensure the continued integrity of the GI Bill programs and that eligible individuals continue to receive the educational assistance benefits to which they are entitled under the law. In our view, these measures have proved to be an effective deterrent to abuses of the system and promoted programs of quality education and training for veterans and other eligibles. We wish to express our support of the recommendation to retain these provisions.

Mr. Chairman, with respect to S. 563 which would permit certain service-connected veterans who are retired members of the Armed Forces to receive disability compensation concurrently with military retired pay with certain restrictions, this bill is a substitute measure for S. 190 previously introduced by Senator Matsunaga. S. 190 provided for the concurrent receipt of VA disability compensation and military retired pay without reduction in the amount of compensation and retired pay.

The provisions of sections 3104 and 3105 of title 38, United States Code, expressly prohibit the concurrent payment of emergency officers', regular, or reserve nondisability retirement pay, along with compensation or pension from the Department of Veterans Affairs unless an amount equal to the compensation or pension is waived from the military retirement pay. This restriction applies to those officers and enlisted men who retired from active duty in the Armed Forces, or who retired as commissioned officers of the National Oceanic and Atmospheric Administration or the Public Health Service, and whose retirement is based on length of service.

S. 563 proposes an amendment of section 3104 of the title to provide that if an individual's retirement pay is based solely upon the individual's age, length of service in the Armed Forces, Public Health Service, or National Oceanic and Atmospheric

Administration, or a combination of both age and length of service, the retirement pay shall be reduced by a set amount based upon the rate of VA disability compensation received. This would permit such individuals to receive the full measure of compensation to which they may be entitled from the Department of Veterans Affairs together with a portion of their military retired pay, if rated less than totally disabled. There would be no reduction of retired pay required for individuals in receipt of a total disability rating.

Mr. Chairman, the Delegates to the Seventieth National Convention of The American Legion adopted Resolution No. 102 (OK) in continuing support of legislative efforts to remove what this organization has perceived to be a longstanding inequity in the law; section 3104 of title 38, as it applies to career military personnel. A copy of the resolution is attached to this statement.

On January 3, 1989, H.R. 303 was introduced in the House of Representatives by Congressman Bilirakis of Florida. This bill would permit the concurrent receipt of compensation with retired pay, without deduction from either. To date, this measure has 237 co-sponsors.

S. 563 recognizes the fact that military retirees are the only Federal employees who are barred from receiving their full military retirement together with compensation for a disability incurred as a result of military service. It would, however, still limit the concurrent receipt of these benefits by retired military personnel who are rated less than totally disabled by the Department of Veterans Affairs for their service-connected disability. Other career Federal employees make no such sacrifice. It is the military retirees who were unfortunate enough to have incurred service-connected injuries or chronic diseases who cannot receive the full benefit intended by VA disability compensation. Such compensation is meant to provide some measure of economic assistance in recognition of a chronic disability and its impact on the individual's quality of life.

In our view, there is a very clear-cut issue of equity involved. The two programs, military retirement and VA disability compensation, are based upon very different standards and criteria - twenty or more years of military service versus a percentage of disability determined by VA - and the benefits provided under each program are for totally different purposes - recognition and reward for long, honorable and faithful service in the Armed Forces versus compensation for impairment in average earning capacity in civilian life. Because of the current legal prohibition against dual benefits, military retirees must, in effect, fund their own disability payments.

The American Legion has for many years sought to remove this unnecessary and unwarranted burden placed on those men and women who have devoted their adult lives in careers of military service to this nation. We strongly believe they have "earned" the benefits provided under the Armed Forces nondisability retirement program and likewise feel that they should receive the full amount of compensation from the Department of Veterans Affairs to which they would otherwise be entitled but for their service-connected disabilities.

While S. 563 would not fully satisfy the intent of Resolution No. 102, it would, in the view of The American Legion, represent a positive step in the direction of eliminating the inequity of the current law and we would not oppose its passage.

Mr. Chairman, S. 1092 includes a number of legislative proposals implementing certain recommendations of the Commission on Veterans' Education Policy.

Section 2 of this measure would amend section 1685 of title 38, United States Code, to authorize the payment of the current applicable Federal minimum wage or the hourly minimum wage under comparable State law to a veteran-student being paid an additional "work-study allowance" by VA under this section.

The American Legion has long supported the provision of this form of additional financial assistance to veterans while pursuing their program of education or training, in return for a limited number of hours of employment in a VA facility or educational institution. Currently, the work-study allowance is based upon the Federal minimum wage or $625 whichever is higher for up to 250 hours of work. This proposal would provide for a flexible payment scale that would help attract and retain quality work-study students, since a number of states have a minimum hourly wage which is higher than the Federal minimum wage.

Section 3 of this measure would expand the eligibility criteria for VA's work-study program to include the dependents and survivors of certain disabled veterans pursuing educational programs under Chapter 35 of title 38, United States Code.

Mr. Chairman, The American Legion does not have a formal position on this issue. However, the work-study allowance is, in effect, a payment for work or services performed and not a gratuitous benefit. The proposed expansion of the program to include certain nonveterans should not, in all probability, deny an employment opportunity to an eligible veteran needing this type of economic assistance. We would not, therefore, offer an objection to this proposal.

Section 4 of the bill would amend section 1784 of title 38, United States Code, to provide for the payment of a reporting fee to educational institutions by VA for veterans enrolled under Chapter 31 of title 38. Currently, the reporting fee is applicable to veterans and other eligible individuals enrolled under Chapters 30, 32, 34, 36, or 36.

This proposal would require VA to pay a reporting fee to educational institutions over and above the current payment which VA makes in the case of Chapter 31 participants. The American Legion is not supportive of this provision, in view of the substantially higher amount already being paid for these disabled veteran-students.

The amendments offered by Section 5 of this bill would remove attendance requirement distinctions between degree and nondegree training. As previously stated with regard to the recommendation of the Commission, The American Legion believes that an inequity now exists in the differing standards and rules which apply to veterans in nondegree programs as opposed to those in degree programs. We support the removal of current attendance requirements as proposed.

Section 6 proposes the amendment of section 1791 of title 38, United States Code, to repeal the limitation on the number of changes in an individual's program of education. In addition, it would require educational or vocational counseling in the case of each change after the individual's first change of program.

As we stated earlier, The American Legion is concerned over the potential abuse which might occur if the current restrictions were removed on the number of times an individual could change his or her educational program. Certain safeguards are necessary to ensure the integrity of the educational assistance program. In our view, the present limitation on changes of program does not deny a veteran the opportunity to change or modify his or her program of education or training. There is sufficient lattitude afforded to permit necessary adjustments in response to certain problem situations. For these reasons, we do not support the proposed removal of the current provisions of law and regulations relating to changes in program of education. We are, however, in favor of adding a requirement for educational or vocational counseling in the process of approving a change in educational program beyond an initial change.

Section 7 would require the submission of monthly certifications of enrollment by the individual veteran or eligible person in order to receive educational assistance benefits for that month. A similar form of monthly certification is required for individuals in programs of education and training under Chapter 30 of title 38. The effectiveness of this monthly self-certification in preventing abuse of the program and reducing overpayment is currently the subject of an ongoing VA study. In the absence of the results of that study, we do not believe that legislative action should be taken to require monthly certification of individuals in other programs of education and training at this time.

Section 8 would amend section 1780 to provide that child-care difficulties may be considered as mitigating circumstances in the withdrawal from a course without the repayment of benefits paid for the period in which the course was pursued.

The American Legion is not opposed to this proposal.

Section 9 proposes to amend section 3013 of title 38, United States Code to provide that the effective date of an adjustment of educational benefits shall be based upon the date of the change.

Currently, the effective date of reduction or discontinuance of educational assistance benefits is as of the last day of the month in which the change occurred. This policy corresponds to similar provisions of law applicable to adjustments in compensation and pension benefits.

We believe that educational assistance payments should be tied to the actual period of time an individual is pursuing a program of education or training. Any adjustment should, therefore, reflect the date on which a change occurred. On this basis, we would not oppose the amendment to section 3013 of the title.

Section 10 of this measure would make the waiver provisions of the "85-15 rule" and the two year rule applicable to members of the Selected Reserve of the Ready Reserve eligible for educational assistance under Chapter 106 of title 10, United States Code.

The American Legion would offer no objection to this proposal.

Section 10 would also extend eligibility for the work-study allowance to individuals receiving educational assistance under Chapter 106 of title 10.

We also would offer no objection to this proposal.

Mr. Chairman, this concludes our statement.

Attachments:
Res. No. 233 (IN)
Res. No. 279 (IA)
Res. No. 138 (ND)
Res. No. 102 (OK)

SEVENTIETH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
LOUISVILLE, KENTUCKY
SEPTEMBER 6, 7, 8, 1988

RESOLUTION NO: 233 (INDIANA)

SUBJECT: SUPPORT LEGISLATION TO AMEND SECTION 314, USC, SO AS TO INCREASE THE MONTHLY RATES OF DISABILITY COMPENSATION

COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

WHEREAS, Disability compensation is a monthly payment made by the Veterans Administration to a veteran because of a service-connected disability; and

WHEREAS, These disability compensation payments are based on a schedule of ratings of reduction in earning capacity from specific injuries or combination of injuries adopted by the Administrator of Veterans Affairs; and

WHEREAS, In response to increased cost of living and other factors, the weekly take home pay of the blue collar worker in non-agriculture employment is constantly increased; and

WHEREAS, To maintain the purchasing power of these disabled veterans, or those entitled to receive these monthly benefits, the rates payable must respond to cost-of-living increases; and

WHEREAS, It is the opinion of The American Legion that there is no way to adequately compensate a veteran for loss of ability to be a working, productive member of our society, and that the monthly rates of disability compensation do not adequately compensate these disabled veterans for their loss due to reduced earning capacity; and

WHEREAS, The American Legion believes a further readjustment in the amount of disability compensation rates is needed so that these veterans can fulfill their fundamental purpose, that is, to assure that they have sufficient economic maintenance; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Louisville, Kentucky, September 6, 7, 8, 1988, that The American Legion support legislation to amend section 314 of title 38, United States Code, to increase the monthly rates of disability compensation.

SEVENTIETH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
LOUISVILLE, KENTUCKY
SEPTEMBER 6, 7, 8, 1988

RESOLUTION NO: 279 (IOWA)

SUBJECT: SUPPORT LEGISLATION TO AMEND SECTION 411, 38 USC, SO AS TO INCREASE THE MONTHLY RATES OF DEPENDENCY AND INDEMNITY COMPENSATION

COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

WHEREAS, The Servicemen's and Veterans' Survivors Benefit Act, effective January 1, 1957, established the dependency and indemnity compensation (DIC) program for those widows and children of servicemen and veterans who die of service-connected causes; and

WHEREAS, This Act, as amended, established a grade-related system of monthly DIC payments to eligible survivors; and

WHEREAS, As now provided under authorizing legislation, the Congress, from time to time, must enact legislation to provide cost-of-living increases for those widows and children receiving, or who may become eligible to receive DIC payments; and

WHEREAS, The American Legion believes that to maintain the purchasing power of these widows and children, or those entitled to receive these monthly benefits, the rates payable must be increased; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Louisville, Kentucky, September 6, 7, 8, 1988, that The American Legion support legislation to amend section 411 of title 38, United States Code, to increase monthly rates of dependency and indemnity compensation.

SEVENTIETH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
LOUISVILLE, KENTUCKY
SEPTEMBER 6, 7, 8, 1988

RESOLUTION NO: 138 (NORTH DAKOTA)

SUBJECT: OPPOSE ANY PROPOSAL THAT WOULD CONSOLIDATE OR CENTRALIZE OPERATIONS OF THE VETERANS ADMINISTRATION REGIONAL OFFICES

COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

WHEREAS, VA Regional Offices were established to provide a more expeditious method of providing services to veterans, their dependents and survivors; and

WHEREAS, Because of federal budgetary restrictions, VA Regional Offices are presently encountering difficulties in providing such services; and

WHEREAS, Any consolidation or reassignment of workload in VA Regional Offices would seriously inhibit and disrupt the veteran's ability to receive timely and responsible services from the VA; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Louisville, Kentucky, September 6, 7, 8, 1988, that The American Legion oppose any proposal to centralize or reassign veterans' claims processing services.

SEVENTIETH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
LOUISVILLE, KENTUCKY
SEPTEMBER 6, 7, 8, 1988

RESOLUTION NO: 102 (OKLAHOMA)

SUBJECT: SPONSOR AND SUPPORT LEGISLATION TO AMEND 38 USC 3104, SO AS TO REMOVE THE RESTRICTION AGAINST THE RECEIPT OF ARMED FORCES PAY, DUE TO LENGTH OF SERVICE, CONCURRENTLY WITH VA COMPENSATION

COMMITTEE: VETERANS AFFAIRS AND REHABILITATION

WHEREAS, 38 USC 3104, prohibits the payment of retirement pay from the Armed Forces concurrently with VA compensation or pension; and

WHEREAS, Civil Service employees, as well as Members of Congress, who retire on longevity may receive their retirement annuity with VA compensation; and

WHEREAS, Armed Forces retirement pay and Civil Service annuity (longevity) is based on duties performed and length of service; and

WHEREAS, Career Civil Service employees and career members of the Armed Forces are both employed by the Federal Government; and

WHEREAS, The American Legion believes that it is inequitable to authorize one group of Federal employees to receive both VA compensation and retirement pay, and prohibit another group from receiving both; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Louisville, Kentucky, September 6, 7, 8, 1988, that The American Legion sponsor and support legislation to amend 38 USC 3104, so as to remove the restriction against the receipt of Armed Forces retired pay, due to length of service, concurrently with VA compensation.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

OFFICE OF THE DIRECTOR

STATEMENT OF

JAMES N. MAGILL, DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO

VETERANS EDUCATION AND BENEFITS LEGISLATION

WASHINGTON, D. C. JUNE 9, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to present the views of the Veterans of Foreign Wars with respect to various education and benefits legislation that would impact on our nation's veterans and the recommendations of the Commission on Veterans' Education Policy. The VFW is appreciative of this Committee for holding this hearing demonstrating your continued concern for those who have served our nation.

In your letter of invitation, you requested the VFW's views on Title I of S. 13, a bill introduced by you which would amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and their survivors; to increase the allowances paid to disabled veterans pursuing rehabilitation programs; and other purposes. Specifically, S. 13 would provide, effective December 1, 1989, a cost-of-living adjustment (COLA), equivalent to the COLA provided for Social Security beneficiaries, in VA compensation paid to veterans with service-connected disabilities and in disability and indemnity compensation paid to certain survivors

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of such veterans. Inasmuch as this increase would be at least commensurate with the Consumer Price Index, the VFW supports this increase.

In the area of compensation, I would like to take this opportunity to address an Administration proposal which would, in our opinion, adversely impact on the Department of Veterans Affairs compensation program. I am referring to the indexing of compensation benefits to the annual change in the Consumer Price Index. We believe such an action would result in reduced congressional review of the compensation program. In the past, the Congress has been fair and compassionate in addressing the needs of our nation's service-connected disabled and we foresee no benefit to veterans in substituting an automatic process for the personal attention of your Committee and, for that matter, the entire Congress.

S. 13 would also provide a 13.8 percent COLA in the allowances paid to certain service-connected disabled veterans' dependents or survivors pursuing educational programs under chapter 35 of title 38 and an equal increase in the allowances paid to service-connected disabled veterans participating in programs of rehabilitation under chapter 31 of title 38. The VFW supports these increases. The VFW also supports expanding the annual clothing allowance provided to veterans so as to include cases in which veterans with certain service-connected skin conditions use medications which stain their clothing.

The next provision of S. 13 would provide that monthly pension payments to hospitalized veterans with no dependents could not be reduced until the veteran has been hospitalized for 8 months. S. 13 would also raise the limit on such reduced pension payments from $60 to $105. The VFW is aware of certain circumstances where veterans suffer hardship when their pension is reduced--specifically, paying rent to maintain an apartment and other financial obligations. While we have no objection to this provision, we would prefer to see the reduction totally eliminated. Statistics released by the VA show more than 600,000 veterans receiving an average of approximately $320 per month in non-service-connected pension payments. While we recognize the potential exists for significant costs associated with the elimination of the reduction, we believe the number of veterans who would benefit are extremely low.

S. 13 extends the Veterans' Readjustment Appointment Authority for Civil Service appointments for 2 years, through December 31, 1991, for Vietnam-era veterans who have a service-connected disability or served in the Vietnam theater of operations. The VFW views the VRA program as being highly successful. And, while we support the extension, we would recommend that this program be made permanent. We also recommend the program be opened to all veterans discharged under conditions other than dishonorable with special emphasis being placed on combat and service-connected disabled veterans.

Finally, the VFW supports the provision of S. 13 which expands the VA's multi-year procurement authority to include the purchase of non-health-care supplies and services.

S. 564, introduced by Senator Matsunaga as well as Senators Cranston, Murkowski, Mitchell, DeConcini and Inouye, would provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of members of minority groups—including women--to services and benefits furnished by the Department of Veterans Affairs.

Mr. Chairman, the VFW is very cognizant of the needs of minority veterans and the degree to which their needs are being met by the Department of Veterans Affairs. While we believe no distinctions should be made between veterans as to their ethnic backgrounds, we also acknowledge that, in certain circumstances, such situations do exist. Inasmuch as we have no resolution addressing this issue, we will not oppose the intent of the bill and defer to the wisdom of the Congress as to the necessity of its enactment. We do not, however, support increasing the number of Assistant Secretaries at this time.

The next bill under consideration is S. 1092, the "Veterans' Education Policy Improvements Act". This act, introduced by the Chairman of the Committee as well as Senators Murkowski and Matsunaga, contains several provisions which implement certain recommendations of the Commission on Veterans' Education Policy (CVEP). This Commission was established under section 320 of Public Law 99-576, the "Veterans' Benefits Improvement and Health-Care Authorization Act of 1986".

S. 1092 would allow VA work-study student allowances to be based on the higher of the Federal hourly minimum wage or the applicable state hourly minimum wage rather than simply the Federal minimum and under current law. The VFW has no objection to this provision.

The bill would expand eligibility for the VA's work-study program to include students training under the program of educational assistance for certain dependents and survivors of service-disabled veterans. The VFW views this action as long overdue and supports its enactment.

Next, S. 1092 would include students training under the (chapter 31) program of rehabilitation services for veterans with service-connected disabilities in the count of those on whose behalf the "reporting fee" is paid. The VFW has no objection to this provision.

Next, the bill would eliminate the differences in the attendance requirements for "degree" and "non-degree" training. While we acknowledge the intent of this provision would result in a cost saving, the VFW does have reservations with its implementation inasmuch as we believe attendance is crucial to the completion of all vocational education programs.

S. 1092 would also repeal the limit on the number of changes of educational programs permitted and institute an education or vocational counseling requirement for each change of program beyond the first change. Again, the VFW has reservations with this provision in that it does lend itself to openendedness as far as the number of program changes a veteran may make in his educational career. We would suggest that perhaps increasing the credit transfer requirement from a "majority" to 60-70 percent would be appropriate to safeguard against the possibility of program abuse.

Next, the bill would provide the Secretary of Veterans Affairs with the discretionary authority under all VA-administered eduational assistance programs to require monthly student self-verification of training for both degree and non-degree training. The VFW opposes this provision in that we believe verification should be "officially" rendered from an institution. We also see the potential for abuse of the program should this provision be enacted.

The final three provisions of S. 1092 would (1) specify that "mitigating" circumstances--which excuse a veteran from repayment of part of the benefits received for a course from which the veteran withdrew--include difficulties beyond the veteran's control in making or changing child-care arrangements, (2) provide that the effective date of adjustments in educational benefits be made at the time of change rather than the end of the month, and (3) modify the criteria for determining waiver or applicability of both the "two-year" rule and the "85-15" rule for certain courses provided under contract with the Department of Defense.

The VFW supports these three provisions.

The next bill under consideration is S. 563, introduced by Senator Matsunaga. This bill would amend title 38, USC, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a percentage reduction in the amount of retired pay. The VFW has long supported legislation that would eliminate the present dollar-for-dollar offset of military retired pay when the retiree is also in receipt of VA disability compensation. Proposed legislation to correct this inequity is now pending in both chambers.

Mr. Chairman, it is an unfortunate but generally known fact that a large number of this nation's retired military veterans are being deprived of a portion of their retirement pay. This is due to the existence of a 19th Century law that still bars concurrent receipt of military retired pay based on length of service and veteran's disability compensation. A 1944 law does permit retirees to receive tax-free compensation if they forfeit the equal amount of taxable retired pay. Military retirees comprise the only group of retirees subject to such a forfeiture or offset of retired pay. The Civil Service retiree or private sector retiree can collect the full amount of his retirement annuity and disability compensation without reduction in either.

Granted, this law came into existence in a period when retirement was an all-too-seldom realized privilege for those members of the Armed Forces who were both sufficiently hearty and fortunate to serve long enough to qualify for Old Age Retirement. When VA compensation was created, it was the basic means by which persons could receive disability benefits if they had served fewer than 20 years in the military service. It was also the only means by which enlisted men could receive disability benefits if they were discharged from military service prior to completing 20 years of service. In fact, it was not until well after World War II that legislation was approved to permit enlisted men to retire from military service because of disability.

So, even though we may not agree with the structure and intent of this law pertaining to military retired pay and disability compensation as it was originally formulated many years ago, we at least recognize that it was in accordance with the standards of those times. In this day and age, when retirement and early retirement systems have become commonplace, the prohibition against the concurrent receipt of military retirement and VA compensation is an outdated inequity.

Further, we must not forget that VA compensation is afforded to veterans for disabilities they have incurred in the service of their nation. In effect, imposing an offset on that portion of military retirement pay which is equal to a veteran's VA disability compensation is a blatant insult. These individuals are being told that the pain, suffering and loss of earning power they have suffered are neither recognized nor valued by society.

One additional thought. We wonder whether Congress has ever considered that the Department of Defense realizes a windfall profit each time a military retiree elects to receive VA compensation. The elimination of this inequitable and insulting treatment of this nation's retired military veterans is a longstanding goal of the Veterans of Foreign Wars. The voting delegates to the 89th National Convention of the Veterans of Foreign Wars passed Resolution No. 613, entitled "Oppose Waiver of Military Retired Pay." This VFW resolution resolves that: "...veterans who receive military retirement pay be granted the full amount of disability compensation from the Veterans Administration to which they are entitled without waiving any portion of their retirement pay."

Mr. Chairman, while the VFW commends the Senator from Hawaii for introducing S. 563, the VFW is mandated by resolution to seek the total repeal of the dollar-for-dollar offset. We look forward to working with Senator Matsunaga and the entire Committee in resolving this long-overdue inequity.

Mr. Chairman, the final bill (S. 1003) under consideration today was introduced by you by request and is entitled the "Veterans' Educational Assistance Improvements Act of 1989".

Section 101 would make two changes to the temporary program of vocational training for certain new pension recipients. First, it would make participation in the program completely voluntary by eliminating the requirement that veterans under age 50 must participate in an evaluation to determine whether achievement of a vocational goal is reasonably feasible. Second, it would provide a trial work period of 12-consecutive months during which the participant's pension would not be terminated either by reason of he or she having the capacity to engage in suitable employment or by reason of the income earned therefrom. The VFW supports these changes.

Section 102 would amend the Montgomery G.I. Bill secondary school completion requirements by eliminating the reference to an equivalency certificate. The VFW could support this provision if a general equivalency diploma (GED) be accepted. We understand that certain states bestow certificates upon completion of 12 years of classroom attendance but these certificates are not necessarily based on achievement. Inasmuch as a GED does require a proficiency level, we believe it should be accepted for eligibility requirements.

Section 103 would also amend the Montgomery G.I. Bill to authorize a period of 2 weeks after the date of an individual's entry on active duty when he or she may elect not to participate in the Montgomery G.I. Bill. Again, we could support this provision as long as the language allows a recruit to make a declaration anytime within the 2-week period. While we believe the vast majority of recruits have already decided whether or not to participate prior to commencing active duty, we have no objection to establishing a period of up to 2 weeks to declare one's intent.

Section 104 would provide that the program of independent living services for service-disabled veterans become a permanent program. Currently, this program expires on September 30, 1989. This program enables severely disabled veterans for whom vocational rehabilitation is not currently feasible to live more independent lives. The VFW supports the program and believes it should be made permanent.

Section 105 would eliminate the requirement that an advance payment be made to an individual participating in a work-study program. Under current law, in return for a veteran's promise to perform a specified number of hours of work under a work-study agreement, an amount equal to 40 percent of the total amount payable is paid to the veteran student prior to the performance of the service. While the VFW acknowledges that overpayments will occur, we also realize that in may cases, this advance payment is crucial to the veteran in meeting varied expenses. Therefore, we do not support its elimination.

Section 106 would enable service-disabled veterans to be eligible for work-study benefits if they are pursuing training or attending school at a half-time or higher rate and if the veteran's service-connected disability is rated at 50 percent or more. This provision correctly recognizes that there are circumstances where it is difficult for a disabled veteran to pursue training on a full-time basis. The VFW supports this provision.

Section 201 would eliminate the Secretary's authority to make advance payments of subsistance allowances. Under current law, certain veterans who are eligible to receive educational assistance allowances may, upon request, be provided an advance payment equal to as much as 2 months of the amount payable. Even though the VA pays all of the participant's training costs, there are other expenses the participants many experience. Therefore, the VFW does not support the enactment of this section.

Section 202 would permit the VA to accept a school's certification for renewal of educational benefits following termination of such benefits for unsatisfactory conduct or progress. The VFW has no objection to this provision.

Section 203 would replace the current system for course enrollment by converting credit hours to equivalent clock hours in programs not leading to a standard college degree. The VFW would prefer to defer comment on this proposal until we have had the benefit of receiving the VA's final report on the CVEP recommendations.

This concludes my statement and I will be happy to respond to any questions you may have.

STATEMENT OF
DAVID W. GORMAN
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
FOR MEDICAL AFFAIRS
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE
June 9, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the over 1.2 million members of the Disabled American Veterans and its Ladies' Auxiliary, may I say that our organization deeply appreciates this opportunity to present our views on legislation relating to the service-connected disability and death compensation programs of the Department of Veterans Affairs (DVA), as well as other legislation also on the hearing agenda.

May I also say, Mr. Chairman, that the DAV values, most highly, the advocacy that you, Ranking Minority Member Senator Murkowski, and all members of the Committee have demonstrated toward the service-connected entitlements of our nation's veterans and their families.

Title I of S. 13

Mr. Chairman, the provisions of Title I of S. 13, the Veterans Benefits and Health Care Act of 1989, introduced by yourself and cosponsored by Senators Matsunaga, DeConcini, and Rockefeller, propose:

- a cost-of-living adjustment in the rates of DVA service-connected disability and death compensation benefits;

- a cost-of-living adjustment in the educational subsistence allowances paid to certain service-connected veterans and to the dependents and survivors of certain service-connected veterans who pursue vocational rehabilitation and educational training;
- expansion of the DVA clothing allowance;
- liberalization in the amount of nonservice-connected pension payments paid to certain hospitalized veterans;
- extension of the Veterans Readjustment Appointment (VRA) authority; and
- expansion of the Department of Veterans Affairs multi-year procurement authority.

Section 101 of the bill directs the Secretary of Veterans Affairs to increase the basic rates of service-connected disability and death compensation benefits, as well as the dependency allowances and, with one exception, the statuary awards which apply to these two programs. Also, upwardly adjusted would be the DVA's annual clothing allowance award.

Under the terms of the measure, these "across the board" increases shall take effect December 1, 1989 and shall be equal to the same percentage rate that is awarded to Social Security beneficiaries (effective the same date) under Title II of the Social Security Act, as determined under Section 215(i) of such Act.

Mr. Chairman, in the five months (December 1988 through April 1989) that have transpired and for which data are available since these rates were last adjusted, the Department of Labor, Bureau of Labor Statistics, has reported a 2.5% rise in the cost-of-living -- approximately five tenths of one percent per month. Projecting an approximation of the same Consumer Price Index (CPI) movement through November 30, 1989, we can anticipate the necessity for an adjustment in the range of 5% to 6%.

Based on such an assumption, and to put it in more meaningful terms, a 5% benefit increase would range from a modest $48.00 per year ($4.00 monthly) for a veteran with a 10% service-connected disability, to $876.00 per year ($73.00 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to service-connected causes.

Mr. Chairman, as a parenthetical note, I do wish to express DAV's appreciation for the provision of S. 13 which requires that, in the computation of increased rates, amounts of $.50 or more shall be rounded up to the next higher dollar amount and amounts less than $.50 shall be rounded down to the next lower dollar amount. We prefer this method as opposed to the rounding down of all computations that are not even dollar amounts (which is the method utilized by the other body).

Mr. Chairman, I also want to make special note of the fact that, in its provisions, S. 13 does not propose to increase the "K" award, as set forth in Section 314(k), Title 38, USC. This is a special monthly benefit -- presently $63.00 -- paid in addition to the basic rates of compensation for certain veterans who have incurred a service-connected loss, or loss of use of, a single extremity or certain other body organs or functions.

This particular award has only been infrequently included in prior compensation bills over the years, and it was last increased to its present amount (by $1.00 monthly) three years ago by Public Law 99-576. We therefore ask the Committee to include the "K" award in any compensation bill that it may recommend to the floor of the Senate.

Mr. Chairman, with the concern noted above, the DAV does support favorable consideration of the disability compensation/DIC adjustments proposed by S. 13.

Having stated that, we also state -- as we have done in recent years -- our willingness to pose no objection should the Congress decide, for the economic well-being of our nation, that the cost-of-living adjustments in all federal programs should be foregone or subject to delay in Fiscal Year 1990. As members of this Committee are aware, disabled veterans have been willing and continue to be willing to do their fair share for America.

However, in view of the fact that such a decision on the part of the entire Congress is not likely to materialize, we urge the Committee to favorably act upon the proposed rate adjustments.

Mr. Chairman, before leaving the subject of rate adjustments in the service-connected disability and death compensation programs, I do wish to bring to your attention a goal recently approved by our organization's National Executive Committee (NEC), that is contained in the DAV's 1989 Legislative Program, which calls for a substantial increase in the children's dependency allowance payments authorized by Section 315, Title 38, USC.

As you are aware, the above cited section of law authorizes additional compensation payments, in the form of dependency allowances, to veterans rated 30% or more service-connected disabled if such veterans have one or more minor children. The present amount of such dependency allowances for a totally disabled service-connected veteran with one dependent child is $61.00 per month, with an additional $46.00 per month authorized for each child in excess of one. For service-connected veterans who are rated 30% through 90% disabled, these allowances are "pro-rated" according to the degree of disability (for example, a 30% service-connected veteran with one child would receive as a dependency allowance 30% of $61.00 -- $18.00 per month).

Mr. Chairman, the Congressional intent in providing these allowances is in recognition of the additional financial responsibilities associated with raising a child. Basic rates of disability compensation are, as you know, intended to restore to veterans, to the most practical degree possible, the loss of earning power caused by a service-connected disability. As such, and using the totally and permanently disabled veteran as an example, these basic compensation payments are intended to provide an amount sufficient to pay for the necessities of food, clothing and shelter. While it can be argued that the compensation extended to totally disabled veterans is sufficient to provide these basic necessities -- though certainly not to a luxurious or even comfortable degree -- this does not hold true if the veteran has the added responsibility of minor children. Hence, as indicated above, the Congress authorized additional payments under Section 315.

However, Mr. Chairman, and certainly with full appreciation to the Congress for recognizing and responding to the child rearing costs of disabled veterans, the DAV must respectfully point out that $61.00 per month, and the lesser amounts afforded to less than totally disabled veterans, in no way approaches the full cost of raising a child. According to information compiled by the U.S. Department of Agriculture, the cost of supporting one child, depending upon geographic location and age of the child, is conservatively estimated to range between $5,000 and $8,000 per year.

Clearly the amount now provided -- $732.00 per year for the child of a totally disabled veteran -- falls far short of this estimate.

Mr. Chairman, the dependency allowance adjustment called for in our NEC resolution is to raise the current $61.00 figure for the first child of a totally disabled veteran to $400.00, with appropriate prorated amounts provided to veterans in the 30% thru 90% disabling categories. We ask the Committee to give serious and favorable consideration to providing such a substantial increase in these dependency allowance payments.

Mr. Chairman, Sections 102 and 103 of S. 13 propose, effective January 1, 1990, to provide a 13.8% upward adjustment in the educational substance allowances provided to service-connected disabled veterans and certain dependents and survivors of service-connected disabled veterans in training under the DVA's Chapter 31 and Chapter 35, Title 38, USC, educational programs.

Mr. Chairman, vocational rehabilitation under the Chapter 31 program is available only to those service-connected disabled veterans who require training to restore employability lost by virtue of a handicap due to a service-connected disability. Tuition, fees, books and other direct educational expenses are paid for by the Department of Veterans Affairs and, in addition, a monthly substance allowance (currently $310.00 for a single veteran) to defray such expenses as food, housing and transportation is extended.

The Chapter 35 Survivor's and Dependent's Assistance Program is available to the spouses and children (generally between 18 and 26 years of age) of veterans rated permanently and totally 100% service-connected disabled, or to the surviving spouse and children of veterans who died in service or from a service-connected disability. These beneficiaries are obligated to pay their own educational expenses and, while in training, do receive educational assistance (currently $376 per month) to defray a portion of their educational expenses.

Mr. Chairman, Chapter 31 subsistence allowances and Chapter 35 educational assistance were last increased on October 1, 1984 (Public Law 98-543). According to the Bureau of Labor Statistics, the Consumer Price Index (CPI) has risen 13.8% from the end of 1984 through December 1988. Additionally, the Department of Education reports that the cost of tuition, fees, room and board associated with higher education continue to increase dramatically. From 1984 through 1988, the cost of higher education has increased 18% for public schools and universities, and 28% for private institutions.

Mr. Chairman, in view of the increased cost of pursuing a higher education, these provisions of S. 13 are certainly timely and necessary. We commend you and the cosponsors of this measure for your insistence that the Chapter 31 and Chapter 35 programs remain viable for service-connected disabled veterans and their families. We certainly support Congressional approval of these rate adjustments.

Section 111 of S. 13 proposes, through appropriate amendment of Section 362, Title 38, USC, to expand the DVA's annual clothing allowance award to include, for eligibility purposes, veterans with service-connected skin conditions whose medications stain or soil clothing.

Mr. Chairman, as you are aware, the DVA's annual clothing allowance, presently $395 per year, is now extended to veterans who, by virtue of a compensably rated service-connected disability, wear or use prosthetic or orthopedic devices (including a wheelchair) which tend to cause unusual wear and tear on clothing. Over the years, this award has enabled many veterans to replace wearing apparel that has been damaged.

The DAV has, for some time, been highly supportive of extending the clothing allowance to the category of veterans specified in this provision of S. 13. We therefore urge favorable action on the proposal.

Section 112 of S. 13 proposes, through appropriate amendment of Section 3203(a)(1), Title 38, USC, that the monthly nonservice-connected pension payments to certain hospitalized veterans who have no dependents shall not be reduced until such veterans have been hospitalized for eight months (with extensions possible) and that the limit on such reduced pensions shall be increased from $60 to $105.

Mr. Chairman, the Disabled American Veterans has no official position on this proposal.

Section 113 of S. 13 proposes, through appropriate amendment of Section 2014(b), Title 38, USC, to extend the Veterans' Readjustment Appointment (VRA) authority for two years, until December 31, 1991.

Mr. Chairman, we commend the authors of S. 13 for this initiative and we support the proposed extension.

As you know, the VRA is probably the most effective and successful employment program designed for Vietnam-era veterans. More than 280,000 veterans have been appointed using this authority and approximately 80% have continued on in career employment within the federal sector. Additionally, it can be safely stated that many of those who did not convert to career employment with the federal government, left federal service for private sector employment. As indicated above, we therefore strongly agree that this authority should be continued.

In fact, Mr. Chairman, we believe that this program should be expanded to include recently separated veterans. So expanded, we would define "recently separated veterans" as individuals who have served on active duty for a period of 18 months or more and were discharged or released from active duty with other than dishonorable discharges, or who were discharged or released because of a service-connected disability. We envision that this authority would be available for up to two years following the date of discharge or release from active duty.

Mr. Chairman, we believe that this type of benefit would enhance employment opportunities for our most recent veterans, as well as assist the federal government in their job recruiting efforts. We urge your favorable consideration of such an expansion in VRA eligibility.

Section 121 of S. 13 proposes, through appropriate amendment of Section 114, Title 38, USC, to expand the DVA's multi-year procurement authority to include the purchase of non-health care supplies and services. The DAV has no official position on this proposal.

S. 564

The provisions of S. 564, introduced by Senator Matsunaga and cosponsored by Senators Cranston, Murkowski, Mitchell, DeConcini and Inouye, propose, through appropriate amendment of Section 4 of the Department of Veterans Affairs Act of 1988 (Public Law 100-527), to provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of minority group veterans, including women, to benefits and services furnished by the Department of Veterans Affairs.

Mr. Chairman, as we understand it, the primary purpose of this measure is to ensure that the ongoing concern for minority veterans, including women, shall be made an integral part of the DVA's policy-making process. This would be accomplished by requiring that the concerns of minority veterans, including women, shall become a specific functional duty of one of the six Assistant Secretary positions created by Public Law 100-527. The measure does not require the creation of an additional Assistant Secretary position, rather, it adds an eleventh function to the ten functions originally required of the six Assistant Secretary positions created by the Act.

Mr. Chairman, the DAV does not believe that inherent in the the Department of Veterans Affairs is anything approaching a widespread, systemic "problem" in terms of minority veterans, as defined in the pending bill, receiving their earned VA entitlements and services. On the contrary, we believe that over the years the Veterans Administration, now the Department of Veterans Affairs, and its thousands of dedicated, hard-working professionals -- many of whom fit the bill's definition of "minority veterans" -- has made every effort to treat all veterans in a fair and equitable manner.

Nevertheless, the DAV is not prepared to say that minority veterans have not and still do not encounter some difficulty in receiving the same benefits and fair treatment as do their non-minority veteran counterparts. Non-equal or unfair treatment need not be intentional to exist. And, as Senator Matsunaga so persuasively argued in his introductory remarks accompanying this legislation, there are cultural, geographic and gender factors which can come into play and mitigate to the disadvantage of minority veterans seeking to access our system of benefits and services. Any measure taken to ensure that all veterans are treated by our federal government equitably -- and S. 564 proposes to do just that -- should be given favorable consideration.

Although the Disabled American Veterans has been given no official position by its membership on the goal of S. 564, we certainly pose no objection to its approval by Congress.

Educational Issues

Mr. Chairman, in your invitation to participate in today's proceedings, you provided us with a copy of the report recently issued by the Commission to Access Veterans' Educational Policy, a copy of the Department of Veterans Affairs Interim Report on the Commission recommendations, and two bills: S. 1092, the Veterans' Education Policy Improvement Act of 1989, introduced by yourself, and S. 1003, the Veterans' Educational Assistance Improvements Act of 1989, introduced by you at the request of the Administration.

Mr. Chairman, I shall restrict my comments to those provisions of the pending measures which are of interest to the DAV and which relate to educational benefits provided on the basis of a service-connected disability or death. Our lack of comment on the remaining provisions of the measures should not be construed as being detrimental to the educational benefits involved. Rather, it is indicative of the legislative focus of the DAV which relates primarily to those benefits and services which have, as a portion of their eligibility criteria, the occurrence of a service related wound, injury, disease or death.

S. 1092

Section 3 of S. 1092, through appropriate amendment of Subchapter IV of Chapter 35, Title 38, USC, proposes to expand eligibility for the DVA's work-study program to include those dependents and survivors in training under the Survivor's and Dependent's Educational Assistance Program. We are supportive of such a change in law.

Section 4 of S. 1092, through appropriate amendment of Section 1784, Title 38, USC, proposes to include veterans pursuing training under the Chapter 31 Vocational Rehabilitation Program "in the count" of those on whose behalf the DVA pays certain fees to educational institutions. We have no objection to this proposal.

Section 8 of S. 1092, through appropriate amendment of Section 1780, Title 38, USC, proposes to authorize that "mitigating circumstances" -- which excuse a veteran or trainee from repayment of part of benefits received for a course for which the veteran or trainee has withdrawn -- shall include difficulties beyond control of the veteran or trainee in making child care arrangements. We are supportive of such a change of law.

S. 1003

Section 104 of S. 1003, proposes, through appropriate amendment of Section 1520, Title 38, USC, that the program of independent living services for severely disabled service-connected veterans shall become a permanent part of Chapter 31, Title 38, USC. This important program is presently authorized only through September 30, 1989. The DAV strongly supports its permanent continuation.

Section 106 of S. 1003, proposes, through appropriate amendment of Section 1685(b), Title 38, USC, to authorize work-study benefits to (a) Chapter 31 vocational rehabilitation trainees and to (b) Chapter 34 trainees who have a service-connected disability rated 50% or more, if such Chapter 31 and Chapter 34 veterans are pursuing training at a half time or greater rate. Currently, this benefit is provided to veterans who are pursuing only full-time training under the Chapter 30, 31, 32 or 34 programs. We support such a change of law.

Section 201 of S. 1003, proposes, through appropriate deletions in Sections 1508 and 1780, Title 38, USC, to eliminate the Secretary of Veterans Affair's authority to make advance payments of subsistence allowances under the Chapter 31 Vocational Rehabilitation Program. We oppose elimination of this authority and urge that this recommendation not be accepted by the Congress.

Concurrent Payment of Military Retired Pay and DVA Disability Compensation Benefits

Mr. Chairman, in your letter(s) of invitation to testify during today's proceedings you requested our views on (draft) legislation derived from S. 563, which Senator Matsunaga intends to submit as an amendment to S. 190. (S. 190 and S. 563, bills introduced earlier this year by Senator Matsunaga, relate to the issue of concurrent receipt of military retirement pay and DVA disability compensation benefits.)

Mr. Chairman, current law (Sections 3104 and 3105, Title 38, USC) does not permit the concurrent, full receipt of DVA disability compensation benefits and military retirement pay, without a deduction from either. In cases where veterans have dual entitlement to both benefits, veterans must (1) receive one or the other or (2) waive an amount of military retirement pay equal to the amount of DVA compensation payments to which they are entitled.

DAV National Convention delegates, over the past several years, have approved a resolution calling for the concurrent receipt of military longevity retirement pay and DVA disability compensation payments. Recognizing that the concurrent receipt of DVA disability compensation and military disability retirement pay would be a duplication of federal benefits, our National Convention delegates have supported the concurrent receipt of DVA compensation and military longevity retirement pay.

In reaching the decision to support the concurrent receipt of DVA disability compensation and military longevity retirement payments, our National Convention delegates recognized the inequity in current law which requires longevity retired military personnel to, in effect, pay for DVA compensation benefits out of their military retirement pay. To our knowledge, no other category of federal retiree is required to waive their federal retirement pay in order to receive DVA compensation benefits.

Mr. Chairman, as an example of the inequity in current law, consider if you will two individuals who incurred combat disabilities. One of these individuals is discharged after two years of service, while the other decides to make the military a career, retiring after 20 years. The combat disabled veteran who left service after two years receives DVA compensation following separation from military service, and any other private or federal retirement benefits to which they may gain entitlement. However, the other individual who also sustained combat related disabilities and remained in military service for 20 years, did not receive DVA compensation payments during the 20 years spent in military service and is also precluded from receiving full military longevity retirement pay and DVA disability compensation. Rather, this individual must waive a portion of his military retirement pay to receive a like amount of DVA disability compensation. As you can see, the longevity retired military careerist is truly treated unfairly as a result of a choice of career.

Senator Matsunaga's legislation addresses this inequity.

Though the measure will not authorize full concurrent receipt of both military retirement pay and DVA disability compensation benefits, it would allow military personnel who are retired based on age or length of service to receive both veterans' disability compensation and a greater portion of their military retirement pay, such portion being based upon a percentage of the level of the service-connected disability.

For example, a longevity military retiree who also has a service-connected disability rated as being 10% disabling, could receive the 10% rate of compensation from the DVA, plus his military retirement pay, minus an amount equal to 90% of the disability compensation to which he is entitled. This "inverse ratio" would be carried forth through a 90% service-connected disability, with only 10% of the 90% service-connected payment being reduced from the military retirement pay. A 100% permanently and totally disabled service-connected veteran would have no reduction in military longevity retirement pay.

Mr. Chairman, although this legislation does not authorize full, concurrent receipt of DVA disability compensation and military longevity retirement pay for all veterans (only the 100% service-connected disabled veteran would receive both payments in full) as called for in our organization's National Convention resolution, we do recognize that it has a much more realistic chance of Congressional acceptance in view of its cost estimate. Full concurrent receipt of both benefits carries a cost estimate of from $700 million to $1 billion per year, while the subject legislation carries a cost estimate of only 1/5 of that amount.

Therefore, as an appropriate remedy which partially addresses the inequity contained in current law, we can and do urge favorable consideration by the Committee.

Mr. Chairman, this completes my testimony. Again, I wish to thank you for having extended us the opportunity to participate in today's proceedings and I would be pleased to respond to any questions you may have.

PVA
PARALYZED VETERANS
OF AMERICA
Chartered by the Congress
of the United States

STATEMENT OF

JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

CONCERNING

S. 13, THE "VETERANS BENEFITS AND HEALTH CARE ACT OF 1989",
TITLE I, COMPENSATION AND OTHER BENEFITS

S. 564, A BILL TO PROVIDE FOR AN ASSISTANT SECRETARY OF
VETERANS AFFAIRS TO BE RESPONSIBLE FOR ISSUES CONCERNING
MINORITY GROUPS

RECOMMENDATIONS OF THE COMMISSION ON VETERANS' EDUCATION POLICY

THE DEPARTMENT OF VETERANS AFFAIRS' "INTERIM REPORT ON VETERANS' EDUCATION
POLICY"

S. 1092, THE "VETERANS' EDUCATION POLICY IMPROVEMENTS ACT"

S. 1003, THE "VETERANS' EDUCATION ASSISTANCE IMPROVEMENTS ACT
OF 1989"

S. 563, A BILL CONCERNING CONCURRENT PAYMENT OF MILITARY
RETIREMENT PAY AND DVA COMPENSATION

JUNE 9, 1989

Mr. Chairman and Members of the Committee, on behalf of the members of Paralyzed Veterans of America (PVA), I wish to thank you for this opportunity to appear here today and present our views concerning several legislative

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initiatives and studies which you have addressed in your letter of invitation.

I wish to begin by conveying our gratitude for the time and effort you and committee staff have devoted to these programs. Throughout the course of the last nine months, when critical health care deficiencies within the Department (DVA) have properly gained a high degree of visibility, you have not forgotten those disabled veterans and their families who find themselves beneficiaries of the various benefit programs and services administered by the Veterans Benefits Administration.

The legislation before us today potentially affects the lives of millions of veteran beneficiaries and their dependents. Young military recruits who are committed to enhancing their futures through formal education; older veterans who have witnessed the horror and anguish of war; hospitalized pension recipients; disabled veterans attempting to overcome their disabilities through vocational rehabilitation; their families, widows and children - these are the people about whom you have chosen to have this hearing today. PVA remains grateful for your concern for their well-being. Your dedication to existing programs and your willingness to address new initiatives will ensure that these and future generations of veterans and their dependents will receive the best that we, as a nation, can provide.

S. 13 - TITLE I

Part A, Section 101 Cost-of-Living Adjustments (COLA)

PVA supports Section 101 of the bill which provides for a cost-of-living increase in rates paid by the Department of Veterans Affairs for service-connected disability compensation and Dependency and Indemnity Compensation (D.I.C.). If enacted, the new rates would become effective on December 1, 1989, and would be increased by the same percentage that benefit amounts are increased under Title II of Social Security provisions.

Mr. Chairman, PVA commends you and the other co-sponsors of this legislation for proposing what we believe to be an equitable cost-of-living adjustment for the recipients of disability compensation and D.I.C. An adjustment which is comparable to the COLA for Social Security recipients will ensure that appropriate standards of living are maintained by veterans, their families, and their survivors.

PVA continues to strongly support the authority of the Committees on Veterans' Affairs and the Congress to determine what constitutes proper adjustments to compensation and D.I.C. payments. As we have in the past, we continue to oppose the Administration's proposal to index such benefits to the annual change in the Consumer Price Index (CPI).

There are many special factors that affect the financial needs of a disabled veteran that go well beyond the formula upon which the CPI is based. This is especially true of severely disabled veterans whose loss of earning power is only part of the total equation. Mr. Chairman, this Committee possesses a very human understanding of how changing economic climates, diminished medical services, deficit reduction initiatives, and decreased benefit delivery services affect a disabled individual both directly and indirectly.

Number-crunched statistics which comprise the Consumer Price Index, obviously, fall far short of reflecting even a remote understanding of such interactions.

Your dedication, therefore, to the 2.2 million veterans who suffer from service-connected disabilities deserves the highest regard from all Americans. On behalf of those who receive such benefits and on behalf of the more than 300 thousand survivors who are recipients of D.I.C., we thank you.

Part A, Section 102 Rehabilitation Subsistence Allowances

This section of the bill proposes a 13.8 percent increase in the rates at which Chapter 31 subsistence allowances are paid. Since the 98th Congress last increased this benefit, subsistence allowances paid under Chapter 31 have remained constant. We, therefore, welcome this improvement and believe the percentage you have proposed represents a realistic appreciation of the sky-rocketing costs associated with a formal education over the past five years.

Mr. Chairman, we believe one of the most important services provided by the Veterans' Benefits Administration is the vocational rehabilitation of service-disabled veterans. Helping these individuals to achieve maximum independence in daily living, to become employable, and to obtain and maintain suitable employment greatly benefits both the individual veteran and our nation as a whole. Restoring disabled veterans to the status of economically productive, tax-paying workers represents an excellent investment of Government expenditures.

Adequate subsistence allowances are a vital part of the over-all vocational rehabilitation effort. Such benefits represent a very real necessity for many seriously disabled veterans who face not only increasing education-related expenses but daily physical challenges which often complicate an already difficult academic schedule. In many cases, an adequate Chapter 31 subsistence allowance means the difference between a trouble free education and one besieged with setbacks. We believe your proposal to increase these allowances will go a long way in ensuring that service-disabled veterans will have every opportunity to successfully complete their training.

Part A, Section 103 Educational Assistance for Survivors and Dependents

S. 11 would also provide a 13.8 percent increase in Chapter 35 benefits for the dependents of veterans who are rated 100% service-connected and for the survivors of veterans who died as the result of a service-connected disability.

These increased rates will help offset the rapidly increasing costs of educational expenses which, it is estimated, have gone up 18% in the past four years for public institutions and 28% for private institutions. In the absence of D.I.C. reform and supplemental DVA life insurance, the Chapter 35 program takes on additional significance. Through this program, the dependents of a severely disabled veteran can pursue an education without depleting the family's savings or without accumulating significant debt. To care for "...his widow and his orphan" must be the objective.

Part B, Section 111 Expansion of Clothing Allowance

In addition to the cost-of-living adjustment proposed in Section 101 of the bill, this section further improves the clothing allowance benefit by expanding the eligibility for those veterans who are service-connected for a skin condition. In the event the Secretary determines that a prescribed medication causes one's clothing to become stained or otherwise damaged, your bill properly extends benefits under Section 362, title 38, USC, for those individuals who must replace clothing due to the use of such medication. PVA supported the legislation last year which addressed this issue - we are pleased to support it again this year in the form of S. 13.

Part B, Section 112 Pension Payments for Hospitalized Veterans

PVA is extremely grateful for the inclusion of this provision in S.13. Section 112 of your bill addresses what we believe to be a severe inequity in the nonservice-connected pension program.

As you know, title 38, USC, presently requires the DVA to reduce pension benefits for a nonservice-connected veteran without dependents who has been hospitalized at Government expense for more than three months. These individuals, already close to the poverty line, must presently endure a reduction in monthly pension benefits which limits them to a maximum of $60 per month. Mr. Chairman, this bill provides several important features which, if enacted, would clearly provide relief for some of our Nation's most needy veterans.

Although average hospital stays may last only five to seven days, there are some patients who require extensive inpatient care which necessitates hospitalization in excess of three months. Even in the case of veterans with spinal cord injuries, many patients are able to be discharged before the three month period has lapsed. For those remaining veterans who must endure an extended period of hospitalization, this bill extends the period of time before pension is reduced to eight months.

Most importantly, the bill further provides that the Secretary has the authority to extend the eight month period if it is determined that the veteran is likely to be discharged from the hospital "within the period for which the extension is granted or within a reasonably short period after the expiration of such extended period." The maximum number of extensions for one period of hospitalization may not exceed four months thus giving the veteran a possible total of twelve months before pension is reduced.

Finally, for those few veterans who continue to be hospitalized beyond the maximum extension, the bill would raise their pension entitlement from $60 per month to $105 per month. This increase would apply also to nursing home patients who have been furnished care for more than three months. We believe this to be a compassionate response to these pension recipients who are currently asked to survive on $2 per day while they are institutionalized.

Mr. Chairman, we agree that the last thing a long-term hospitalized pension recipient needs is a reduction in income. Coming at a time when the individual is suffering from acute medical problems, the reduction in pension often imposes severe financial hardships for the affected veteran. A veteran's financial obligations do not end by virtue of the fact the

Government is temporarily providing room and board. For the most part, these individuals have secured living arrangements either through home ownership, subsidized housing, or rental housing. The financial effect of a reduction in pension can be devastating.

Several months ago PVA initiated a survey in an attempt to further define the severity of the pension reduction problem. PVA Service Officers from across the country reviewed hospital records of those individuals for whom we have power-of-attorney. The records were reviewed not only to determine the number of PVA members who were affected by the reduction in 1987 and 1986, but also to provide insight concerning the complications which resulted from the reduction.

Approximately 150 cases have been reviewed, many of which have been shared with Committee staff. All of these cases represent severely disabled veterans whose income has, in some cases, been reduced by as much as 93% when coupled with the discontinuance of the aid and attendance allowance.

From Florida... "Veteran was receiving pension benefits in the amount of $517 per month. He had no other source of income. When his DVA pension was reduced to $60, he could no longer pay the $280 monthly rent on his apartment. After several inquiries by his landlord, the veteran borrowed enough money to keep his apartment but will be unable to repay his debt."

From Michigan... "Veteran was in the DVA Medical Center for five months. His pension was reduced from $465 to $60 after the third month. As a result, he was unable to pay rent and utilities on his apartment."

From Illinois... "Veteran in receipt of aid and attendance allowance was reduced from $861 to $60 during the fourth and fifth month of hospitalization. He had to borrow money from family and friends in order to pay his home expenses."

From Florida... "As a result of the pension reduction, the veteran's mortgage payments lapsed. The veteran's doctor at the DVA Medical Center used his personal funds to repay the mortgage company thus preventing foreclosure proceedings. The veteran would have lost his home had it not been for this intervention."

Mr. Chairman, this is just a small sample of the types of cases in our survey. Similar stories can be told by single pension recipients in nearly every DVA Regional Office jurisdiction in nearly every state.

In January 1989, the DVA estimated that approximately 1000 hospitalized veterans were affected by the pension reduction. Collectively, they have about $3.2 million withheld from their annual pension payments. In every reduction case, the DVA is properly carrying out the provisions of title 38, USC., as written.

The Department has opposed, (we believe with the encouragement of OMB), legislation which would remove or liberalize the provision in title 38, USC., concerning pension reduction. In testimony before the House Subcommittee on Compensation, Pension, and Insurance in April 1989, the Department argued that "any abolition of the pension reduction or lengthening of the period following admission before a reduction takes place would only increase the value of the estate and the likelihood of inheritances by remote heirs."

Quite frankly, this argument is so weak we are surprised the DVA would want to present such logic.

Most pension recipients have financial obligations and actually use their monthly benefit checks for the daily necessities of life. There simply is not much left over at the end of the month. To argue that remote heirs would cash-in on the accumulated wealth of a pension recipient represents a red herring and misplaced priorities on the part of the Department. In addition, we find the Department's concern with remote heirs to be inconsistent with their testimony in March 1988, concerning the estates of incompetent veterans, at which time they conveyed reluctance to restrict benefits for such heirs.

The Department further stated at the April 1989 hearing they had no evidence that hospitalized pension recipients as a whole have been unable to meet their monthly obligations. Although we are only able to comment on veterans represented by PVA, we believe they are, to a large degree, representative of the 1000 hospitalized individuals who have their pension reduced.

Finally, the Veterans Health Services and Research Administration must take on the responsibility of discharging a patient who has lost his apartment. At a time when this Committee and the Congress has recognized and addressed the issue of homelessness by passing legislation for the care of homeless veterans, it is unconscionable that a DVA Medical Center would ever have to contemplate such action.

PVA is encouraged that the Honorable Douglas Applegate, Chairman of the House Subcommittee on Compensation, Pension, and Insurance, has also introduced legislation (H.R. 1334) which addresses the pension reduction. We are hopeful that through the combined efforts of both the Senate and House Committees on Veterans' Affairs, legislation will be enacted this Session to resolve the issue.

Part B, Section 113 Limited Extension of the Veterans' Readjustment Appointment Authority

This provision of the bill amends Section 2014 of title 38, USC. As you know, Section 2014 addresses the issue of employment in the Federal Government for qualified disabled veterans and veterans of the Vietnam Era.

PVA supports this proposal to extend this authority to December 31, 1991. We reaffirm our belief that it is incumbent upon the Federal Government to uphold the intent of Congress by promoting the "maximum of employment and job advancement opportunities within the Federal Government" for veterans defined in this Section. The bill specifically limits those who would be entitled to the two-year VRA extension by targeting service-disabled Vietnam era veterans and Vietnam era veterans who served in the Vietnam theater of operations.

Mr. Chairman, in spite of less than enthusiastic efforts on the part of OPM and numerous other Federal Agencies to enforce the provisions of Section 2014, VRA has been a very successful program since its beginning in 1970.

Almost 280 thousand veterans have been hired by the Federal Government under VRA authority over the years.

It is for this reason that we would not like to see a restriction on the eligible veterans who would qualify for your extension. There is no question that the two groups you have targeted for the extension continue to have high unemployment rates and are not adequately represented in the Federal Government workforce. OPM should certainly concentrate on improving the Government's hiring record of these individuals. We believe, however, that as long as the VRA program continues to be a viable employment tool for veterans, it should serve as many individuals as possible.

Part B, Section 121 Multi-year Procurement of Non-Medical Items

Section 114 of title 38, USC., presently authorizes the Department to enter into a multiyear contract for the procurement of supplies and services for use in the Department's health care facilities.

PVA believes that expanding this authority for the procurement of non-medical items is certainly in the best interest of the Department. Multiyear commitments have been shown to reduce costs, encourage competition between contractors, and increase quality of service.

The Veterans Health Services and Research Administration has already demonstrated the advantages of multiyear procurement contracts. By extending such authorization for the procurement of non-medical items, the Department could establish multiyear contracts for a variety of services and supplies such as maintenance for DVA cemeteries and contracts for headstones, markers, and graveliners.

We believe that Section 121 of your bill, if enacted, would be cost effective and would ultimately result in better service to our Nation's veterans.

S. 564

This bill, introduced by Senator Matsunaga, provides for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of minority groups to services and benefits furnished by the Department of Veterans Affairs. This legislation would, therefore, add an eleventh duty to the existing functional duties already assigned to the six Assistant Secretaries.

PVA supports the intent of this bill. The Department's policymaking process should include a special concern for the unique problems that minority groups may have. By designating these responsibilities to an Assistant Secretary, accountability for minority issues rests with one individual, not several people scattered throughout the DVA in different administrations and services.

Although we believe the purpose of this legislation is fundamentally sound, we do wish to express several concerns about S. 564.

- * We believe such legislation may cause duplication of certain functions already assigned to the Assistant Secretaries. How would such responsibilities fit into the equal opportunity functions already in place?

- * For the purposes of S. 564, five groups of minorities have been identified. We believe this may be too restrictive in that there are other minority groups who also have unique problems; ie., handicapped and elderly veterans.

- * How would Department policy regarding minority issues be implemented? Would the Veterans Benefits Administration, the Veterans Health Services and Research Administration, and the National Cemetery Service continue to be responsible for implementing programs for minorities?

PVA agrees that the concerns of all minority veterans groups should be addressed at a high level within the Department. Such concerns should be given a high degree of visibility and should be reviewed and assessed by one individual who is accountable for the effects such policies have on minority groups.

We are not convinced at this point, however, that S. 564 represents the best solution to this legitimate concern expressed by Senator Matsunaga. We are hopeful that this issue will be developed further in order that the results of such a proposal can be more definitively assessed.

VETERANS' EDUCATION POLICY

Mr. Chairman, in 1986 you and Senator Frank Murkowski co-authored legislation which resulted in the creation of the Commission to Assess Veterans' Education Policy (CVEP). This important body was tasked with the responsibility of submitting a report to the Administrator (Secretary) of Veterans' Affairs and to the Senate and House Committees on Veterans Affairs on its findings, views, and recommendations concerning the administration of DVA educational programs.

The Commission's August 29, 1988, report entitled "Veterans' Education Policy," represents a thoroughly comprehensive study of the issue and provides significant assessments of the various educational programs under the jurisdiction of the DVA. PVA has reviewed this document and we applaud the Commission for providing what is obviously an invaluable tool for the DVA and the two Committees on Veterans' Affairs.

The Commission has made nineteen specific recommendations concerning DVA education policy. These recommendations were based on several assumptions and principals we believe to be most relevant in considering the entire environment in which DVA education programs operate. Among other things, the Commission has stressed the importance of adequate resources that will enable the DVA "to meet and sustain staffing, automated data processing, travel, training, and other needs." As we pointed out in testimony last month, the issue of adequate resources is the driving force behind the potential success of these programs. We wish to first provide our assessment of the Commission's recommendations in the context of the proposed legislation before us today and the interim report prepared by the Department of

Veterans' Affairs (February 28, 1989). We will then comment on the remaining recommendations.

S. 1092, The "Veterans Education Policy Improvements Act"

Mr. Chairman, S. 1092 would amend title 38, USC., by implementing certain recommendations of the CVEP for veterans' education policy improvements concerning work study allowances, institutional reporting fees, distinctions in degree and non-degree training, and other provisions.

Section 2 - PVA supports your proposal to require work-study allowances to be based on the higher of the Federal hourly minimum wage or the applicable State hourly minimum wage in which the veterans-student services are provided. We believe this would help to ensure that quality work-study students are attracted to these positions in states that have higher minimum wage scales.

Section 3 - This section of the bill expands the eligibility requirements for work-study allowance to those survivors and dependents who are pursuing educational programs under Chapter 35. PVA endorses this amendment to title 38 and believes such standardization is in the best interest of the program and those who use it. We agree with you that the current priority for the participation of service-connected veterans in the work-study area should not be changed. We are grateful for your concern for the dependents and survivors of seriously disabled veterans.

Section 4 - The ability and willingness with which institutions approach the voluminous task of providing certifications, records, and reports to the DVA directly affects the quality and timeliness aspects of benefit delivery. Since the Department can not provide staff to maintain veterans' records on campus, this responsibility becomes that of the institution.

It is therefore, we believe, in the best interest of the DVA to pay realistic reporting fees to institutions to help offset the growing costs of providing such administrative work for the Department. In the absence of such fees, increased costs to the schools will simply be passed on in the form of increased tuitions and other costs to the student. The DVA will eventually foot the increased bill for the tuitions, books, and fees of Chapter 31 participants. Institutions will also become reluctant to provide this service.

For this reason we believe it is proper for the Department to include Chapter 31 participants when counting the number of DVA beneficiaries who are enrolled at an institution.

Section 5 - This section of your bill addresses the distinction between non-college degree and degree training. As you know, there are presently a variety of differences in the way the Department treats such curricula. The main differences are the distinction between attendance reports and the distinction between credit-hour versus clock-hour measurements.

We believe the removal of some of these differences is long overdue. The necessity of "absence reporting" for non-college degree participants should be eliminated. The participants of these programs should be treated no differently than those pursuing a college degree. Monthly "cert cards" have long been a source of check delays and confusion. Required signatures by school officials also have added to the delays. It is the responsibility of State Approving Agencies and DVA Regional Office personnel to ensure that proper oversight is maintained regarding individual school's enforcement of "standards of progress" requirements.

Section 6 - PVA supports this section of your bill which replaces the "changes-of-program" limitation with counseling requirements. As you know, veterans and other eligible beneficiaries are generally limited to one change of program. In some restricted cases, additional changes may also be made.

In view of the small percentage of students who change programs beyond the initial change, we agree that there is little justification for this adjudication process. Most importantly, under the current system a veteran can quite possibly be denied a second change of program even though the change is appropriate.

We do have some concerns about this proposal, primarily in regard to staffing requirements and increased workloads. We are concerned that veterans will be forced to wait long periods of time before they are able to see a counselor. We also understand the DVA's concern about potential abuse and, therefore, suggest that this provision be closely monitored.

Since the vast majority of participants affected by this change (Chapters 30 and 32 participants) have made financial commitments to their educations, we believe there will be a minimal amount of unnecessary course changing by these individuals. The number of those who benefit from this liberalization will, we believe, far exceed those who abuse it.

Section 7 - This section of your bill provides the Secretary with the authority to require monthly self-certification of enrollment for all DVA education programs. Currently, the Montgomery GI Bill is the only program which requires such certification.

PVA offers limited endorsement of this proposal until the results of the Chapter 30 test are concluded. For the same reason that we support the elimination of monthly certification cards for NCD participants, we are concerned that such monthly certifications may cause more problems than they are worth. The volume of certifications flowing into regional offices every month will be staggering. The chance of an individual certification being lost, causing benefits to be withheld, will rise proportionately.

Instead of veterans being able to rely on their checks at the beginning of each month, checks will go out only after the Department has processed the monthly certification. Without question, there will be delays. There will also be duplication of work when certifications are resubmitted because a check did not appear on time.

PVA suggests that this provision not be implemented until the Committee is certain that veterans and the Department will both benefit from its intent.

Section 8 - This section of your bill would amend section 1780 of title 38 concerning the provisions of mitigating circumstances. As you know, individuals may be excused from repaying benefits after withdrawing from a course if the withdrawal was due to any of a variety of mitigating reasons. Your bill includes making or changing child-care arrangements as one of these acceptable mitigating reasons. PVA supports this necessary change.

Section 9 - PVA supports this provision which would amend Section 3013 of title 38 to provide that the effective date of an educational benefits adjustment based on a change in a student's course load would be the date of change rather than, as under current law, the end of the month in which the change occurs. This initiative would be especially beneficial if the provisions in Section 7 of your bill prove to be successful. The advantage to the veteran is that, in the case of a reduction in course load, the net result is "saved entitlement." We suggest the Committee might wish to consider a similar change for other effective dates such as the increase to 100 percent compensation when hospitalized for over 21 days for a service-connected disability under "paragraph 29" in the DVA Disability Rating Schedule.

Section 10 - PVA supports this provision which standardizes the "85-15" and "Two-Year" rules for the Chapter 106 program.

Comments on Other CVEP Recommendations

* Benefit-Delivery System Structure: In view of the devastating reductions in VBA staffing over the past decade, we believe the Department must consider alternatives to the present benefit

delivery system structure. The actual processing of education claims may very well be accomplished more efficiently if done at a handful of large regions instead of all 58 regional offices. Individuals having "direct-line" responsibility for education programs and veterans benefits counselors could ensure that program participants continue to be able to get assistance and advice at the regional offices.

* Counseling and Support Services: We agree with the CVEP assessment that all DVA education programs could be used more efficiently by the participants if these individuals were routinely counseled prior to or at the outset of their training. As you know, individuals who are interested in counseling services may currently request such assistance when they submit their initial application for training. This practice, however, has not gotten much publicity from the Department.

Obviously, such required counseling will take another heavy toll on staffing requirements. We note that the Commission believes the counseling could be in the form of "clear, written information" with more substantive counseling and assistance upon request. At the time of counseling, another of the CVEP's recommendations could be discussed with the participant - that the DVA intends to be aggressive in its efforts to collect justified debts due to education overpayments and abuse of the program. In any case, appropriate FTEE must be made available if this recommendation is to be successful.

- Debt Recovery and Fraudulent Claims: The DVA has an obligation to the American taxpayer and to the integrity of its education programs to collect justifiable debts. We believe that the required counseling recommended above would present an excellent opportunity for the Department to make clear its intent to be aggressive in its effort to collect such debts and ensure GI Bill benefits are not abused.

- Remedial, Deficiency, and Refresher Training: PVA supports this recommendation which would authorize and make standard such training for Chapter 30 and Chapter 106 participants. As stated in testimony last year, we also believe that such training should not be counted against one's original entitlement.

- Restoration of Pay Reductions Under Certain Circumstances: This CVEP recommendation represents a compassionate and fair response to a situation where a Chapter 30 participant dies before being able to use the education benefits to which he has contributed. PVA supported legislation last year which would have permitted the restoration of the pay reduction in cases of death or catastrophic disability occurring on active duty.

- Standardization: The Commission has pointed out that there are now ten distinct and separate education programs for which the

DVA has administrative responsibility. There are numerous inconsistencies in these programs, many of which are unexplainable and serve no purpose. We, therefore, agree with the Commission that the different features of the various education programs should be standardized to every extent possible, consistent with their design and purpose. Having accomplished this mission, the administration of DVA education benefits should be an easier task.

Since there will surely be disagreements on how these various features should be standardized, we recommend that the DVA first identify all the differences and that the Committees on Veterans' Affairs then incorporate standardization of these items into future legislative initiatives.

* Training and Associated Administrative Resources: PVA's position on this issue is well documented in numerous testimonies before both Committees on Veterans Affairs and in the "Independent Budget." Centralized training is definitely preferable over local, ad-hoc, informal training conducted by journeyman adjudicators on a piecemeal basis. Such centralized training results in more consistent interpretations of title 38 and provides the regional office with fully productive new employees much faster than local training.

Secondly, the prioritization of sophisticated and enhanced ADP capabilities is critical to the ability of the Veterans'

Benefits Administration to carry out its mission of providing prompt and efficient service. This issue, with which we are all familiar, must receive the necessary attention and funding needed to bring DVA management information services out of the Dark Ages. As FTEE continue to be cut in the name of "modernization," veterans waiting for their benefit checks will be the ultimate losers.

- Home Study Courses: Although the Commission has made no formal recommendation regarding the vocational value of correspondence-home-study courses, PVA wishes to point out that such courses provide an extremely important educational tool for severely disabled individuals who are house-bound.

S. 1003, The "Veterans' Educational Assistance Improvements Act of 1989"

The Department of Veterans Affairs initiated this legislation which includes a total of ten provisions addressing vocational rehabilitation, education assistance, and other administrative and technical amendments.

Title I

Section 101 - PVA considers the vocational rehabilitation program for nonservice-connected pension recipients to be one of the most innovative and potentially productive programs implemented by VBA in recent years. With sufficient resources and staff to run this program, it will provide a cost-effective method by which pension rolls can be reduced and will help alleviate the ever-increasing demands placed on the DVA's health care system by returning individuals back into the private sector through utilization of employee provided health benefits. We are hopeful that this worthy program, due to expire January 31, 1992, will be made permanent.

Mr. Chairman, the Department has proposed the elimination of the mandatory evaluation requirement for pensioners who would enter this program. PVA opposes this initiative for several reasons.

It is our belief that the sooner an individual is exposed to a viable alternative to permanent unemployability, the more likely it is that he will find success in vocational rehabilitation. Unfortunately, the NSC pension program contains built-in work disincentives which, over the years, may lead to an unnecessary dependence on government support. By eliminating mandatory evaluations, the Department will lose one of the best methods by which newly injured young pension recipients are exposed to vocational rehabilitation.

Mr. Chairman, if this program removes one veteran from a life of unnecessary financial reliance on the government, the program will be worth it. Not only is this in the best interest of the American taxpayer, but it restores a disabled individual back to becoming a contributing member of society. Equally important, it significantly improves the quality of life and increases the independence of a disabled individual.

The Department's proposal to eliminate mandatory evaluations would obviously preclude DVA's ability to determine whether the achievement of a vocational goal is reasonably feasible for many veterans. We believe it is DVA's responsibility to do this for both the sake of the program and the veteran. We are deeply concerned that the Department is going to lose many potential candidates if mandatory evaluations are eliminated.

We do support the Department's proposal to continue pension payments for individuals who, as the result of their vocational training, are able to maintain employment for twelve consecutive months. At the end of the twelve month period, pension would be terminated, however, entitlement to medical care at DVA facilities would be retained for a period of three years. This is most important since potential candidates are rightfully concerned about their eligibility for health-care.

Section 102 - PVA feels it is important to have uniform and properly acceptable standards when considering secondary school credentials. In some instances, eligibility can be based on credentials as insignificant as a certificate of attendance. We have no objection to uniform regulations being promulgated by the Department of Defense for Chapter 30 and Chapter 106 benefits.

Section 103 - PVA concurs with this provision which clarifies current law by specifically authorizing a period of two weeks after the date of an individual's entry into active duty within which he or she may elect not to participate in the Chapter 30 program. We do believe, however, that DOD should make every effort to encourage new recruits to contribute to the program.

Section 104 - PVA supports the Department's recommendation to make the program of independent living services for service-connected veterans a permanent part of the Chapter 31 program. Independent living services are provided primarily to those veterans who are currently found to be infeasible for training. This is an excellent program to assist these individuals in stabilizing their lives and gradually steering them in the direction of vocational rehabilitation.

We strongly urge the Department to utilize independent living services to every extent possible. Field surveys to inspect housing facilities, ramps, lifts, and other methods by which one's independence can be enhanced, are critically important to the well-being of a severely disabled person. We are pleased that the Department recognizes the importance of this program and we endorse the removal of the present September 30, 1989, expiration date.

Section 105 - PVA offers limited endorsement of this provision which provides for the elimination of the advance payment of work-study allowance payable to an individual prior to the performance of services. We believe, for the same reasons we expressed in our discussion of S. 13, Part A, Section 102, it is critical to the mission of the VR&E Service to provide every opportunity for a disabled veteran to successfully complete his vocational rehabilitation program. Although we believe it is reasonable for the Department to pay work-study students retroactively for work they have performed, we do not support the elimination of advance payments for Chapter 31 beneficiaries.

Section 106 - PVA supports this provision of S. 1003 which addresses work-study benefits for certain Chapter 31 and Chapter 34 students. Although this amendment would not apply to Chapter 31 participants who have limited work tolerance, amending the law to allow other S/C veterans enrolled in less than full-time programs to use work-study benefits would provide an additional resource for the veteran and a valuable service for the DVA.

Title II

Section 201 - PVA strongly opposes this provision which would eliminate the advance payment of subsistence allowance for Chapter 31 beneficiaries. The Department argues that in view of the fact the DVA pays all training costs for such veterans, advance payment of subsistence allowance is not warranted.

We take issue with this assessment. The need for subsistence allowances is, in many cases, unrelated to the direct expense of tuition, books, and fees. Although such allowances are often justifiably used for tuition when certain schools require partial payment prior to the commencement of training, other living expenses are equally important during initial periods of training and demand the necessity of advanced pay. We do not believe that advances from the Chapter 31 Revolving Fund offer a better solution to the financial subsistence needs of a student at the beginning of his training.

Section 202 - We support this amendment which would allow the Department to accept a school's certification of reenrollment as showing that the cause of the veteran's unsatisfactory progress is removed and the program is suitable. We assume that in the case of a veteran who wishes to change school and/or program after being terminated due to unsatisfactory progress, DVA counseling and development would be required.

Section 203 - PVA leaves the fate of this provision concerning the conversion of clock hour measurements to the Committee and DVA. If it is determined, as the Department contends, the proposal would simplify such measurement determinations and yield understandable and consistent results, we support it.

Section 204 - This section generally standardizes certain provisions in several DVA education programs. We believe it represents the basic philosophy expressed by several of the CVEP's recommendations which we supported earlier in this testimony.

S. 563, A BILL TO PROVIDE CONCURRENT PAYMENT OF MILITARY RETIRED PAY AND DVA DISABILITY COMPENSATION

The eventual passage or defeat of this legislation is a matter of great concern to advocates on both sides of the issue. PVA wishes to thank Senator Spark Matsunaga for his effort to secure an equitable resolution to the problems surrounding the payment of these benefits.

At the outset, PVA can support the basic premise of S. 563. It is a complex issue which lends itself to an assortment of diverse interpretations. Comparisons between military and civilian retirement systems, military disability retired pay versus DVA disability compensation, and the purposes and definitions of each sometimes vary even within the same group of advocates.

It is our belief that military retired pay and DVA disability compensation have two distinct and separate objectives. We fully understand the rationale in any retirement system which prohibits concurrent payment of both retirement based on longevity and retirement based on disability. In the case of the military, both DOD and the Supreme Court draw distinct similarities regarding the objectives of retirement based on disability and retirement based on longevity. Both are "personnel management tools" designed to ensure a "young and vigorous" military force. In other words, they are tools primarily in place to benefit the overall effectiveness of the military. Granted, early retirement provisions benefit the individual as well, but the principal purpose favors the military establishment.

DVA disability compensation, whose sole objective is to compensate individual veterans who have suffered the loss or reduction of earning capacity, therefore bears no relationship to the objective of military retired pay. Consequently, PVA does not believe concurrent payments represent duplication of benefits.

Having stated our views on the relationship between the two payments, we wish to comment on the potential financial and programmatic effect S. 563 would have on existing DVA programs and a limited Federal budget.

Senator Matsunaga's bill represents a significant change from past legislation which proposed the entire elimination of the offset. Instead, S. 563 applies an inverse ratio formula which limits the disability compensation that could be paid to retirees with lower-rated disabilities.

We understand that S. 563, if enacted, would cost about $200 million the first year. Although significantly less than the $1 billion necessary to fund previous legislation, the bill continues to represent a significant cost to the Government during a time when the Department of Veterans Affairs has announced it can no longer treat Category B and Category C veterans.

We firmly believe that the financial responsibility for S. 563 belongs with the Department of Defense. We must outright reject any proposal which would result in the curtailment of any existing programs under the jurisdiction of the DVA.

PVA looks forward to working closely with Senator Matsunaga and Committee staff to secure eventual passage of legislation that would bring equity to military retirees without having a prohibitive adverse effect on DVA programs and overall budgetary restraints.

Mr. Chairman, that concludes my testimony. I will be happy to answer any questions you may have.

UNIFORMED SERVICES DISABLED RETIREES
5909 Alta Monte NE
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STATEMENT OF STEPHEN WOLONSKY
ALBUQUERQUE, NEW MEXICO

PRESIDENT
UNIFORMED SERVICES DISABLED RETIREES

BEFORE THE VETERANS' AFFAIRS COMMITTEE

U.S. SENATE
ON
S.563

TO PERMIT SERVICE CONNECTED DISABLED VETERANS
TO RECEIVE RETIRED PAY CONCURRENTLY WITH DISABILITY COMPENSATION
AFTER A REDUCTION IN RETIRED PAY

JUNE 9, 1989

Mr. Chairman and Members of the Committee, in April of last year the Uniformed Services Disabled Retirees (USDR) testified before the House Veterans' Affairs Subcommittee on H.R. 303, to eliminate the offset between military retirement pay and V.A. disability compensation. This was the first time that a hearing had been held on the offset issue to explore the hardships it creates for career military who become disabled and to study the true costs associated with eliminating the offset.

At that hearing, USDR made the following statement, "We ask that you, members of the Veterans' Affairs Committee, remain open to our pleas for consideration, listen to our experiences and attempt to work with us toward a solution we can all support in enacting H.R. 303 in some measure". USDR, representing several thousand members of the career disabled military and the interests of 300,000 fellow disabled military retirees, believes that this Committee has responded to our requests for fair treatment by its very consideration of S. 563. USDR supports S. 563 as "enacting H.R. 303 in some measure". Obviously, USDR supports the total elimination of the offset regardless of the percentage of disability as contained in Senator Matsunaga's bill S. 190 and in Rep. Bilirakis' bill H.R. 303.

We support and urge the Committee to enact S. 563 because to do so upholds the principles USDR fought so hard to establish in the Absher case(805 F. 2d 1025, Fed.Cir. 1986, cert. denied, 55 USLW 3730, 1987). The Veterans Administration and the Department of Defense have repeatedly stated that the current law's prohibition of the payment of both disability benefits and retirement pay is based upon the theory of dual compensation, rejecting the differences between the two payments. The federal courts did not support the dual compensation theory. Instead the courts simply stated that the statutory prohibition was based upon fiscal restraint and that budgetary reasons were the only basis that Congress chose in limiting concurrent receipt. The courts firmly placed the issue before the Congress, stating that it imposed the economy measure only on the career military and it alone has the authority to change it.

Enactment of S.563 would recognize that military disabled retirees should receive some payment for their disabilities which is not deducted from their earned retirement. It does not eliminate the total offset except in those cases where the individual has sacrificed so much in the service of their country that the disability is rated 100%. However, enactment of S. 563 establishes the rights of retireed disabled military to receive a separate payment for their injuries. For this reason we support enactment of S.563 as a step towards equal treatment of disabled military retireees.

The current law creates real hardship and suffering for many disabled military retirees who are not able to receive their retirement pay because of the waiver. In the cases of many enlisted retirees, receiving both retirement pay and a disability payment is the difference between subsistence and an income above the poverty level.

One of our members retired in 1963 as an E-5 with $125 a month retirement pay. Today his retirement is about $300 but he is 50% disabled, so his V.A. disability of $400 a month wipes out his retirement pay. He cannot work at another job to supplement his income and if, he could receive both amounts, that is $300 retirement and $400 V.A. disability or $700 a month, the quality of his life would be greatly enhanced. Under S. 563 as proposed, he would receive a reduction of his retirement pay by only 50% of his disability instead of the 100% offset required under current law. S. 563 would permit him to receive $100 of his retirement pay per month for a total of $500 per month, which would make a considerable improvement in his life style.

Although S.563 will not allow disabled retirees to collect all of their retirement pay unless they are 100% disabled, those amounts authorized inversely related to disability will make a significant contribution to the incomes of most retirees. There is one group of disabled retirees that S.563 may not treat adequately and we would like to bring this to the Committee's attention for possible amendment. Retirees in the 10% to 30% range of disability may receive so little retirement pay which is also subject to income tax, that there is no real advantage being granted to them under the bill. (VA compensation for 10%=$73/month, 20%=$138/month, and 30%=$210/month) USDR suggests that no tax liability should result from receipt of retirement pay for those with 10% to 30% disability. This provision for favorable tax consideration for this special group would not unduly increase the cost of the bill, since the income tax paid on receipt of retirement pay was never considered by CBO in estimating the cost of the bill. An amendment for this group could be cleared with the Senate Finance Committee in advance, so the bill's consideration would not be delayed. We respectfully request that the Committee consider this provision.

The costs associated with eliminating the prohibition on receiving earned retirement pay and V.A. disability compensation were explored at the hearing before the House Veterans' Affairs Subcommittee last year. Prior to this hearing the Administration has always attached a $2 Billion cost figure to H.R. 303. Actual outlays will come from the Department of Defense (DOD) budget and not from the Veterans' Administration. DOD at the hearing testified that $762 million is waived in retirement pay annually, representing the real costs of H.R. 303. Payments will come from the Military Trust Fund. Accrual accounting methods require the

DOD to make budget authority contributions to the Fund for active duty military who will retire and be disabled in the future. Although this is an intergovernmental transfer of funds, it increases the cost of the bill to DOD. We recommend that the Committee request that DOD adjust its formula for these contributions over a longer time frame to reduce costs.

USDR also urges the Committee to consider the actual costs of completely eliminating the prohibition on receiving both retirement pay and a disability payment, as contained in S.190 introduced by Senator Matsunaga, the companion bill to H.R. 303. H.R. 303 currently has the support of 17 national veteran organizations and 236 Members of the House have cosponsored the bill. In light of this overwhelming support, USDR believes that this Committee should seriously consider some remedy to our problem. Therefore, given the budgetary constraints faced by the Congress, USDR believes that enactment of S. 563 is a minimum response.

The Committee is faced with favorably considering a bill that is not $2 Billion nor $762 Million but approximately $200 Million per year from the DOD budget. This is a reasonable response that we believe the Committee and the Congress should adopt. The actual cost of S.563 is lower than the CBO estimate of $200 Million because the CBO did not consider or estimate the amounts returned to the Treasury by the payment of income tax on retirement pay. USDR suggests that the Committee request this estimated return to the Treasury from CBO in considering the costs associated with S. 563.

Once again we would like the Congress to affirm the promise made to military retirees that they are entitled to receive the retirement pay they earned and a payment for disability. The government has already failed on the promise of free health care to retirees and their dependents. Military retirees are now told that medical care in a military facility is a privilege not a right, which is only available on a first come basis. Military retirees on CHAMPUS often pay copayments for services not reimbursed and at age 65 must transfer to Medicare. The disabled military retiree faces out of pocket medical costs, which he never prepared to assume. Some payment for their disabilities would enable them to bare these costs and S. 563 would provide the most financial resources to those who are most disabled.

Fundamental fairness demands that the career military who become disabled be treated equally as employees in government civil service or the private sector. This is a modest request considering the burdens associated with military service, such as frequent transfers, duty away from family and the many life threatening hazards encountered. The case could be made that such retirees deserve special treatment, but we are not asking for that, just equity. If USDR members had careers in any other advocation , they could receive their retirement pay and V.A.

disability. The federal retiree may even base their retirement period upon military service time, so that the same service time is used as the basis for two different payments. The veteran who does not make service to his country his life long objective is treated better than the military retiree. Other than budget constraints, USDR finds this difficult to understand. We beleive that the current costs of correcting our problem are reasonable in relationship to the nation's responsibility to maintain its promise to the career military.

Statement of Bernell C. Dickinson, Director, Office of Special Programs, North Carolina Department of Community Colleges, before the Senate Committee on Veterans Affairs, United States Senate, June 9, 1989.

North Carolina Department
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919/733-7051 or 7535

Mr. Chairman and members of the Committee: Thank you for this opportunity to speak on behalf of community colleges and their undeniably significant role as providers of education and training for our veterans and military student population.

We speak on behalf of the 58 institutions comprising the North Carolina Community College System.

The local community, junior, technical and vocational colleges and schools across the country, from their inception, have been significant and instrumental in providing convenient, low-cost, high quality, easy access, education and training to our veteran and military student populations. These institutions have a desirable mix of academic and occupational education and training which contributes to the readjustment of the veteran and to the upward mobility of the active duty and National Guard and Reserve personnel.

The complexity of the education programs regulations promulgated and administered by the Department of Veterans Affairs tend to create extraordinary monitoring difficulties for institutions, inequities in payments to similarly circumstanced students, and contribute to overpayment problems for the Department of Veterans Affairs by virtue of many technicalities which are obsolete or inappropriate to the kind of education delivery provided by our institutions.

In our view, the recommendations of the Commission to Assess Veterans Education Policy are valid and workable and are due favorable consideration on the part of this Committee and the Congress. We have been privileged to have presented testimony before the Commission and to be a member of the Department of Veterans Affairs Administrators' Education Assistance Advisory Committee which has filed with the Administrator a reaction to the Commission's report.

This presenter concurs with the recommendations of the Commission and the intent and content of Senate Bill S.1092. Our concerns rest with the implementation and regulatory provisions which will follow enactment. We respectfully request that during mark-up a provision be included which will create opportunity for representation from representative systems and/or community college institutions to become involved in formulating proposed rules and regulations prior to the publication of proposed rules.

We endorse the contents of S.1092 with the following reservations and recommendations:

1. ABOLISH THE LIMIT ON THE NUMBER OF CHANGES OF PROGRAM AND THE REQUIREMENT OF COUNSELING TO EFFECT A CHANGE.

   We recommend that the counseling requirement be extended to qualified counselors resident in regionally accredited community colleges institutions. Institutions presently participating in the veterans and military education programs currently have at least one resident person who is designated as Certifying Official for the institution. They participate in meeting and training sessions provided by the Department of Veterans Affairs and/or the State Approving Agencies and have the resources of the counseling and advising staffs of their institutions available to them. This resource should be used to facilitate program choice and selection as they are professionals who will have already been involved with the student.

2. REMOVAL OF ARBITRARY ATTENDANCE REQUIREMENT DISTINCTIONS BETWEEN DEGREE AND NON-DEGREE TRAINING.

The distinction between programs leading to educational objectives and those leading to vocational objectives has its genesis in the original G.I. Bill. At that time there was a distinct difference. The advent of the community colleges introduced an effective blend of the academic and the occupational pursuits. Nationwide, community colleges are either regionally accredited or are in pursuit of such accreditation. Accreditation standards acknowledge the academic hour of a 50 minute class period with a ten minute break without distinction between the academic or occupational intent of particular students or programs. It is inequitable and inefficient to expect institutions to monitor similarly circumstanced veterans between those in pursuit of an academic degree and those in pursuit of an occupation. The legislation should also provide that where a state's system is divided between academic and occupational institutions that a credit standard be applied to the occupational institution (nee' non-degree) which is commensurate with the state's standard for its degree-granting institutions. We respectfully request that during mark-up, this clarification be incorporated into the present bill S.1092. This will serve to eliminate the provisions in the law currently in effect for four different measurement criteria for pay purposes and will simplify monitoring, reporting, compliance reviews, and eliminate arbitrary overpayment charges created by the differences between standard and accepted practice for our community college institutions and the obsolete provisions of the current legislation and implementing regulations.

3. PAYMENT OF BENEFITS BASED ON PROGRESS RATHER THAN RATE OF PURSUIT.

The Commission's recommendation on this issue is an evolutionary one which deserves examination and study. The concept is not unlike the practice currently used by the military for administration of their tuition assistance programs or the practice in use by industrial employers whereby upon successful completion of a program or courses, they reimburse their employee for the costs incurred in such pursuits.

> The concept of payment for achievement constitutes an incentive for diligence toward completing an educational program and rewards those who do. A safeguard with a minimum level of benefits for all who pursue in good faith, is needed, however, to protect the interest of those whose aptness for achievement is less than that of the upper 10% of the population!

Senate Bill S.1092 has our endorsement and we extend our appreciation to Senator Cranston and his staff for his devoted and long standing attention to the needs of our veterans. We urge the full Committee to support this legislation.

We have also had brought to our attention Senate Bills S.13, S.564, and S.1003. We commend the intent of S.13 to improve conditions for our disabled veterans and their families. We appreciate the intent of S.564 to promote access to services and benefits and to monitor on behalf of minority groups and women and we endorse both of these bills in their present format.

Senate Bill S.1003 contains a proposal for converting credit hours to clock hours equivalent to which I earlier referred. While we agree with the intent as stated in the section-by-section analysis we must observe that the conversion of credit hours to clock hours is an anomaly of regression as it usually works the other way. This further illustrates the earlier observations of this testimony and that of my colleague from North Carolina, John Davis, of the multilith of computations already incumbent upon participating institutions and adds another to it. Is it the intent of the congress to continue the compounding of this phenomenon? This proposed change, taken singularly, sounds simple and generous. Placed in the context of an already overburdened institution it simply adds another layer to the measurement criteria already being administered and monitored. We support the intent to simplify accountability for payment and the realization of equity of pay for similarly circumstanced veterans. We use this example to illustrate that while we are studying, examining, and discussing the measurement 'bear', it continues to grow hair.

Again, thank you for this opportunity to testify on behalf of our veteran and military students in community colleges.

National Association of Veterans Program Administrators

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TESTIMONY OF

Lynn Denzin, President

National Association of Veterans Program Administrators

before the

Senate Committee on Veterans' Affairs

Response to CVEP recommendations; an Interim Report by DVA; S. 13, Title I; S. 1003; and S. 1092.

June 9, 1989
Room 418, Russell Senate Office Building

Mr. Chairman and members of this committee, on behalf of the National Association of Veterans Program Administrators, I wish to thank you for the opportunity to present our views on the recommendations made by the Commission to Assess Veterans Education Policy, the response of the Department of Veterans Affairs, and the legislation addressing those reports.

We would like to thank all members of the CVEP for the time and effort spent in the preparation of their recommendations, and we recognize the expertise and concern shown.

We have been asked to comment on the education provisions of S. 13. NAVPA supports the rate and allowance increases for veterans with service-connected disabilities. The cost of living and costs associated with training continue to increase. Periodic rate increases for service disabled veterans and dependents of those veterans are necessary to ensure continued pursuit of educational goals.

Comments on S. 1003, Veterans Educational Assistance Improvement Act of 1989. NAVPA concurs with and supports these provisions of S. 1003 - Title I, Section 102 - Eliminating reference to an equivalency certificate; Section 103 - Provision authorizing of two week period after initial entry in which service member may elect not to participate in Chapter 30; Section 104 - Independent living services as a permanent part of Chapter 31; and Section 106 - Work study eligibility as a half-time student for 50% or more service-connected disability. In Section 105 - NAVPA favors the existing provision of advance pay for work study hours in order to assist the student veteran with the extra expenses involved in the beginning of each term. We have no objections to the clarifications of administrative provisions in Title II of S. 1003.

NAVPA applauds the efforts of the original co-sponsors of S. 1092 - Senators Cranston, Matsunaga, and Murkowski, and the committee staff, for such an excellent and reflective piece of legislation. Introduction of such inclusive legislation so quickly after receipt of the required responses was a monumental task, and we recognize and thank those involved.

Nearly all provisions of S. 1092 are strongly endorsed by NAVPA. One of the foremost issues being the replacement of the change-of-program limitation with a counseling requirement. Under the existing change-of-program policy it is a judgment call on the part of the VA adjudicators which determines a veteran's future use of educational benefits. From NAVPA members nation-wide there is information on inconsistencies in decisions of the VA. We believe that the students receiving the MGIB will be a more mature serious student; that they have invested in their educational benefits; and that they will use care and discretion in changes-of-program. Additionally, with the required counseling component it is anticipated that a careful review of career goals would be instituted. This, in fact, may serve to enhance the educational objective and experience; and in the long run decrease the number of changes-of-programs. Additional comments on provisions of S. 1092 are included within the following responses to the Commission recommendations.

Benefit Delivery System:

With the recent establishment of four processing centers for Chapter 30 benefits, it is apparent that processing of VA educational benefits will not again return to the regional offices as we have known in the past. The ombudsman would serve institutions of higher education and veterans with the benefit of being more aware of local sensitivities and special needs. We would like to include the stipulation that the ombudsman be guaranteed appropriate authority, prestige, training, computer support, and office support personnel.

It additionally would be extremely beneficial to institutions to have a direct line of contact with their appropriate processing center for inquiries. We recommend that this line be in the form of a toll free number.

Certifications and Reports: Effective Dates:

Monthly self-certification- NAVPA's greatest concern with the requirement of self-certification which is included in S. 1092 is the existing problem of lag time in processing. From NAVPA members nation-wide there is a problem with student veterans receiving the certification letter late, or not at all, which in turn delays receipt of the benefit check. NAVPA is gathering data on this issue as discussed with the Senate Veterans Affairs Committee staff.

It is also imperative that the institution be included in the loop of information the student sends the VA. The VA must build in a mechanism for checking with the institution when veterans report any kind of change in status.

Modification of the thirty-day rule- We support this suggestion, emphasizing the responsibility is on the veteran to report any change in status to both the institution and the VA.

Adjustments in benefits- NAVPA supports a change being effective on the date of the event as included in S. 1092; but only those changes which would effect pay status. Changes which have no effect on a veterans rate of training should not be required as they cause unnecessary time, effort, and paper-work for both the VA and the institutions.

Changes of Program Limitations:

Abolish limit on number of changes- This recommendation is supported as it is proposed within S. 1092. With only thirty-six months of entitlement these students will follow the most direct route for obtaining their degree objective.

Counseling requirement- This is an excellent suggestion. With adequate counseling, selection of degree objective will be much better thought out. We must raise the concern of who will do the counseling. If the VA does the counseling, delays will occur. If institutions do the counseling, they should receive compensation for the additional requirement.

Compliance Surveys and Supervisory Visits:

Monitor by exception- NAVPA supports the approach of problem solving rather than punitive action.

SAA concentrate on schools where assistance is needed- This follows the above recommendation. Resources should be utilized to assist schools who are experiencing problems or lack of understanding on necessary records. It is essential that SAA personnel are themselves adequately trained and have the necessary support to conduct effective training for institutions.

Re-model compliance surveys and SAA supervisory visits- NAVPA strongly supports adoption of this policy and this behavior. It would serve to improve the working relationship with the VA/SAA and the institutions to concentrate on fixing small problems before they become any kind of potential school liability.

Assistance to institutions with staff turnover- Excellent suggestion. The Department of Veterans Affairs Central Office must commit to the importance of the area of educational benefits and support it accordingly.

Counseling and Support Services to Veterans:

The concept of detailed counseling is absolutely supported by NAVPA. Within the narrative of the Commission recommendations is mention that the counseling would not necessarily be one-on-one. Use of videos for counseling, as well as small group sessions, could be effectively accomplished.

Debt Recovery and Fraudulent Claims:

Recovery of overpayments-

Resources and personnel be provided to the VA-

Other Federal agencies cooperate in efforts-

All of these proposals support the concept that the veteran is ultimately accountable for utilizing their educational benefits in a responsible manner. We support an aggressive, but fair, approach with the VA exhibiting responsible legal behavior.

Distinctions Between Non-College Degree and Degree Training:

NAVPA agrees with the Commission narrative which reflects a belief that arbitrary distinctions between vocational/technical programs and degree granting programs should be eliminated. We support the inclusion of this aspect within S. 1092.

Measurement:

Progress in attaining objective- NAVPA supports payment of educational benefits by credit hour, with no distinction in how the credit is earned.

Eliminate standard class sessions- NAVPA strongly and absolutely supports this recommendation. Pay the student veteran for credit hours earned, and which the school has determined apply to the stated degree objective.

Independent and non-traditional modes of study- We support the concept of counting these credit hours without discrimination. In setting a 10% limit the aspect of record keeping of those hours could become a serious problem.

Alternative payment schedule- We support payment for credit hours earned toward the declared educational objective, regardless of the class presentation.

SAA determine what is approved program- Reliance may be placed on the State approving agencies to implement quality-control procedures, but without undue influence by the VA.
The VA study as discussed within their response is supported, and it is hoped they would consult with educational institutions and the VA Educational Advisory Committee.

Mitigating circumstances:

Modify policy- This issue has been at least partially addressed in PL 100-689. NAVPA supports the "forgiveness" policy.

Child care as mitigating circumstances- NAVPA supports difficulties with child care as acceptable mitigating circumstances, and we are pleased to support its inclusion in S. 1092.

Publications:

Newsletters and manuals- NAVPA strongly supports this suggestion. The AACRAO/VA Certification Manual mentioned in the Commission narrative has been re-printed, in loose-leaf format, and sent to institutions. We applaud the efforts of those involved in that process for an excellent job. Additionally, regular publications from the VA would be an immense help to institutions.

Rewrite chapters of Title 38- We strongly and adamantly support and encourage this recommendation! The regulations are difficult for both VA employees and school officials to understand, and virtually impossible to explain to students.

Remedial, Deficiency, and Refresher Training:

Available to all chapters of GI Bill-

No charge to entitlement-

PL 100-689 did partially address this issue. Chapter 106 recipients were excluded, however. We support standardization of benefits for all chapters of VA educational benefits. We also support that there be no charge to basic entitlement, based on the precedents with previous chapters.

Nine-month limitation on refresher training- NAVPA does not support this limitation. Refresher courses in one subject area can often be taken in conjunction with regular degree courses in another area. Therefore, it may be more plausible to allow a set number of total hours taken as refresher rather than set a number of months in which benefits may be utilized.

Reporting Fees:

Increase the amount- An increase in the amount paid for reporting fees is long over-due, and is absolutely necessary. The cost to institutions for certifying veterans has increased several times over, with no increase in the commitment for reimbursement by the VA. There must be firm support within the VA for an increase to be realized.

Fee based on a scale- The most appropriate reporting fee reimbursement is to pay the institution for all student veterans they processed for an entire year. Even with the scale given in the Commission recommendations, schools are only paid for a fraction of their total veteran enrollment.

Include Chapter 31- Even though the approval for Chapter 31 students is processed differently than other chapters, every school is involved in some aspect of the Chapter 31 enrollment. Due to the special needs of many disabled student veterans services must be provided which are beyond those necessary for other veterans. NAVPA supports institutions being compensated for Chapter 31 as included in S. 1092.

Restoration of Pay Reductions Under Certain Circumstances:

NAVPA supports this issue as stated in PL 100-689.

Role of Continuing Education:

NAVPA supports the recommendation that continuing education courses should be allowable for veterans educational benefits.

Standardization:

NAVPA firmly supports standardization of benefits.

The VA Task Force is a good idea, and NAVPA recommends that school officials are also consulted. The work of the Task Force could also serve as a basis for re-writing Title 38 as recommended by the Commission.

Training and Associated Administrative Resources:

Regular training sessions- NAVPA strongly endorses this suggestion. Training within the VA of new personnel is critical, and the need is immediate. With minimal training, new personnel within the VA regional offices are assigned to process files and answer questions. With frequent changes of personnel within Guard and Reserve units, errors in input of information is an on-going problem and regular training sessions could only help this situation. Additionally, the use of videos is a viable alternative for those institutions who are unable to attend training sessions due to distance, etc.

Enhanced computer capabilities- The VA has utilized systems that appear to be slow and cumbersome. To progress with the optical disk system and other Chapter 30 processing systems it is essential that the VA be given adequate financial support to enhance their systems. VA employees must be given adequate training. It is also crucial that program enhancements, software, and equipment be standardized. We would recommend that a task-force which includes representation from the institutions of higher education be formed to develop long range computerization goals.

Staffing and resource allocation- The VA must commit to the belief that educational benefits are important, processing those claims is important, and assisting schools and student veterans is important before adequate staff and resources will be provided for educational services. The four Chapter 30 processing centers must be supported with a high priority for staffing and resources.

VA work-measurement- The Commission narrative speaks very effectively and specifically to the VA emphasis on quantity rather than quality. VA employees must receive reinforcement on the importance of doing a quality, personal job in working with veterans.

Two-year Rule, Standards of Progress, and the 85-15 Rule:

Reaffirm these provisions-

Apply provisions across the board-

Incorporate Chapter 106 program-

The Commission has recommended a new look and a fresh start in many areas of regulations and requirements. It is NAVPA's position that the same attitude should be carried through for the two-year rule and the 85-15 rule. These are out-dated concerns and methods which require an unnecessary amount of data collection on the part of institutions. We would urge the authors of S. 1092 to reconsider this provision. Problem institutions should be dealt with on an individual basis through the methods discussed within the SAA and training narratives.

Value of Home Study Courses:

The Commission made no recommendation, and we have no comment.

Work Study Program:

- Progressive payment scale-
- Expand eligibility-

NAVPA strongly supports the progressive payment scale for VA work study positions, and the standardization of benefits for all chapters. With this structure there is more probability for compensating and retaining well trained workers who assist all types of VA offices as well as institutions. The VA's comment within their response on the lack of interest in the program may be traced to the low wage scale. Increasing wages should serve to increase interest.

As an alternative to the recommendation made by the Commission NAVPA is in support of the provision in S. 1092 which allows the higher of Federal or State hourly minimum wage; and expands eligibility to Chapter 35 and 106 recipients.

We appreciate the opportunity to address the Senate Committee on Veterans Affairs on these issues. We commend the work that has been done by this committee to improve and ensure the success of the chapters of GI Bill.

ASSOCIATION OF THE UNITED STATES ARMY

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STATEMENT BY

COLONEL RICHARD C. KAUFMAN, AUS RETIRED

ASSISTANT DIRECTOR OF LEGISLATIVE AFFAIRS

ASSOCIATION OF THE UNITED STATES ARMY

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

FIRST SESSION, 101ST CONGRESS

VETERANS' EDUCATION AND BENEFITS

9 JUNE 1989

A Statement to the
Committee on Veterans' Affairs
United States Senate

9 June 1989

Mr. Chairman and Members of the Committee:

It is a pleasure for me to represent the Association of the United States Army before the Committee today and provide our testimony on veterans' education and training as proposed in the Veterans' Benefits and Health Care Act of 1989, the Veterans' Educational Assistance Improvements Act of 1989 and the Veterans' Education Policy Improvements Act.

Our Association is appreciative of the Committee's commitment toward making veterans' educational benefits more responsive to the needs of individual participants. It is indicative of the concern that members of Congress have for service to our nation and merits special recognition by all of us concerned with veterans' benefits. We salute your resolute purpose of service.

With respect to S.13, the Veterans Benefits and Health Care Act of 1989, we heartily endorse the cost of living adjustments, increases in the dependency and indemnity compensation for survivors, and increases in rehabilitation and educational allowances for veterans with service-connected disabilities. It is essential that we continue to maintain the economic equity of VA benefits. These provisions, as contained in S.13, will help to inhibit the slow erosion of compensatory benefits and assist in warding off the deleterious effects of inflation. While other sections of the bill are noteworthy, these provisions deserve special recognition because they continue to address critical concerns for all veterans, their dependents and survivors.

S.1003, addresses some important considerations for veterans' educational assistance. The Montgomery G.I. Bill has been accepted remarkably by service enlistees. It has wide appeal among young men and women and has been a major factor in meeting Army enlistment objectives. We support amendments that make the benefit more readily available to youngsters who have not completed their high school diploma requirements, and, therefore support the provision that allows the service secretary to set the criteria defining alternate secondary school credentials.

This amendment is especially helpful in meeting recruiting objectives because it makes the benefit responsive to the strength needs of the individual services. As competition for enlistees increases, exacerbated by a dwindling supply of young recruits, service secretaries will be forced to adjust their demand for narrowly defined alternate school credentialed participants. Since the services understand the value of academically high caliber personnel, they are best suited to determine their service's needs and the benefits required to attract that caliber of enlistee. AUSA supports the provision which allows the secretary of the military department concerned to set the criteria for alternate high school credentials.

Another important feature of the Educational Assistant Program Improvements Act is the amendment establishing a definitive period of time before a recruit must make final election of participation in the Montgomery GI Bill program. We agree that two weeks is sufficient time for a recruit to decide whether he or she wants to participate in the GI Bill. Careful guidance and counsel must be available to these service personnel so that they have all the facts on which to make an informed decision about their future education.

Finally, the work-study provisions of S.1003 make good sense because they shore up the problems inherent with advance payments for future work. Past abuses of the program have resulted in overpayment for work never completed. In a time of finite fiscal resources this is especially troublesome and detracts from the overall effectiveness of the program. Additionally, the Association has no objection to other sections of the proposed legislation addressing certain administrative changes applicable to credit hour requirements of the present law.

However, there is an inequity in Montgomery GI Bill educational benefits between the active and reserve components of the Department of Defense. We would like to bring to the committee's attention H.R.1358, a bill which provides equity of benefits to members of the National Guard and Reserve who want to pursue graduate or vocational education not now permitted to them under the Montgomery GI Bill. Particularly important to this Association is the opportunity for enlisted personnel to pursue vocational interests that have the potential for increasing their military job skills, thereby becoming more competent as a member of the Reserve Component. In fairness to the Reserve Component this inequity should be eliminated. We ask your support for similar legislation in the Senate.

In addressing the provisions of the Veterans' Education Policy Improvements Act, the Association is in general agreement with the bill as written. Specifically, we agree that there is a need to have a realistic work-study wage for participants in the VA's work-study program. Without discussing the relative merits of the recent debate on raising the national minimum wage, AUSA recognizes that very few VA recipients will participate in work-study at the present wage scale. S.1092, recognizes this shortcoming in earning power and provides a welcome alternative by allowing wages to be dictated by the higher of either the national or state minimum wage for student work-study.

Ancillary to the issue of work-study wages is the need to permit certain dependents and survivors of service disabled veterans to participate in the VA work-study program. Further, we believe, that as a matter of equity, the provision is correct in extending this benefit to members of the Selected Reserve.

In line with the principle that there is a right way to do right, we support all attempts to assist veterans who have service-connected disabilities. They have needs which must be met beyond those of more fortunate VA benefit recipients. It is important that new provisions for assistance be well reasoned and applicable to their special needs, whether it be with fees or other payments attributable to their service-connected disabilities.

Our veterans must be able to participate in educational and training programs without being subjected to a myriad of administrative details. While we do not wish to see participants wander aimlessly through one academic or training period after another, we are aware that they are the true deciders of their own academic destiny. Statistics do not support that veterans are unable to determine their own education requirements. We support the idea of multiple changes of program. However, we also recognize the need to provide education counselling so that veterans are cognizant of their options and risks inherent in repetitive program changes. It is difficult enough to complete most academic or vocational training programs where there is bonafide interest, but to suffer through a program outside a student's range of interest borders on cruel and unusual intellectual punishment.

The primary interest should be to encourage participation in VA administered educational assistance programs. After all, the program is for the participants and administrative requirements should assist in a smooth transition toward meeting academic requirements. We concur that the VA must have a method that satisfies the verification requirements which reduce the opportunity for over-payment of benefits. Our inability to meet all the fiscal demands of society demand as much from each of us. It would be a mistake in judgment to permit indiscriminate changes of program or abdicate the responsibilities of prudent oversight in administering the educational assistance program. In short, we believe that the Secretary must sustain the department's interest by exercising a counselling program for those seeking a change in program, and further, that the Secretary exercise supervision in monthly self-certification of veterans in both degree and on-degree course work.

The Association has no objections to other provisions contained in S.1092, thereby concurring with the legislative intent that provides recognition of certain mitigating circumstances in withdrawing from academic courses, immediate adjustment of benefits to actual date of change and modification of criteria governing waivers in certain cases.

In concluding our review of veterans' benefits, we would like to provide comments on S.563, a bill which addresses concurrent payment of retired pay and disability compensation. AUSA has long been in favor of permitting concurrent payment of both pays. While S.563, does not permit one-hundred percent payment of both compensations, a recommendation we have sought, it nevertheless is a suitable compromise in this fiscally constrained environment. Additionally, we support the provision of no non-retroactive payments as stated in the proposed legislation.

Mr. Chairman, the Association of the United States Army appreciates the continued support of your committee for veterans' benefits. Our membership believes that these bills will assist in making veterans' benefits more responsive to the needs of service personnel, whether active, reserve or retired.

This concludes my statement and I am prepared to respond to any questions you may have at this time.

COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

FINAL REPORT

TO THE

HOUSE AND SENATE COMMITTEES
ON
VETERANS' AFFAIRS

AND TO

THE SECRETARY OF VETERANS AFFAIRS

JULY 27, 1989

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BACKGROUND AND INTRODUCTION

The Commission to Assess Veterans' Education Policy was established by section 320 of Public Law 99-576, enacted on October 28, 1986. The Commission was charged with the responsibility of submitting a report to the Secretary of Veterans' Affairs and to the House and the Senate Committees on Veterans' Affairs on its findings, views, and recommendations with respect to various matters relating to the administration of VA educational assistance programs. The Commission submitted its first report on August 29, 1988, eighteen months after its formal establishment, as required by law.

The Secretary of the Department of Veterans Affairs (VA) submitted to the Congress a response to that report, entitled "An Interim Report on Veterans' Education Policy" on April 27, 1989. Pursuant to section 320 of Public Law 99-576, the Commission is required within 90 days of the Secretary's submission to provide to the Congress and the Secretary its views on the Department's response.

On May 22, 1989, the Commission met to consider its reply to the Department's response. Based on the discussions at that session (please see Official Minutes at Appendix A), this report represents the fulfillment of the Commission's responsibilities. It should be stressed that, unless otherwise specifically indicated herein, the Commission continues to support the suggestions and recommendations contained in its first report although not necessarily restated here. The Commission also has identified some additional issues there were not addressed in its first report that are included in this reply.

The Commission wishes to thank the members of the Secretary's Advisory Committee on Education for their review of and general support for the recommendations contained in the Commission's first report. On a number of occasions in this reply, the Committee's suggestions have been incorporated. Specific note is made of the minority opinion submitted by Committee member Benn; the Commission concurs that when VA administers a rule, it is doing so in accordance with the intent of law and is not dictating education policy to schools.

Once again, the Commission expresses its gratitude to all those who participated in the Commission's activities and contributed to its mission, including the Ex Officio members and their representatives. The Department of Veterans Affairs deserves a great deal of credit. The support and cooperation the Commission has enjoyed has never been less than outstanding. The participation and contributions of so many were invaluable to this undertaking. Beyond that, the latitude, flexibility, and foresight that the Department has exhibited throughout this undertaking is reflected in its April interim response to the Commission's recommendations.

Discussion of Recommendations, VA Response, and Commission Reply

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Benefit-Delivery System Structure

(Commission Report, pp. 77-84; VA Response, pp. 6-12)

COMMISSION RECOMMENDATION: Adopt in the long run a consolidated-region approach to the processing of all education programs (to include adjudication and processing of all benefits and approval and compliance functions) to be located in a handful of large regions and retaining only an "education ombudsman" capacity (having direct-line responsibility flowing through the education program) in each of the 58 regional offices. Ombudsman pay and grade level should be commensurate with the responsibility to maintain liaison with institutions, students, reserve units, and others, and to undertake problem solving and trouble shooting as required.

VA RESPONSE: VA agrees in principle with consolidated region approach to processing of education claims. However, it believes that personnel responsible for conducting compliance surveys and liaison should continue to be based in each regional office. Also the Department supports the concept of an "education ombudsman" position in each regional office reporting to the Veterans' Services Officer.

COMMISSION REPLY: The Commission is pleased VA has already expanded the processing of chapter 30 claims from one regional office (St. Louis) to four locations (St. Louis, Buffalo, Atlanta, and Muskogee). Indications are that the Department is actively exploring the advantages of regionalizing the processing of all education claims and that the chapter 30 regionalization is being used to study the feasibility of the consolidation of all education claims processing. The Commission stresses that advantages of a consolidated-region approach to claims processing include the equal and consistent application of the law and minimization of confusion. The Department is urged to continue to pursue this approach.

The Commission agrees with the Department with respect to the stationing of compliance survey specialists and liaison personnel in all regional offices, but remains deeply concerned that the issue of direct-line supervision within the educational benefits system is still unclear. It is understood that within the existing structure the issue of direct-line supervision may be difficult to resolve. Nevertheless, the Commission believes that as the Department moves through this transition period, the direct-line supervision of the "education ombudsman" position must be made clear.

The Commission is concerned that the St. Louis Regional Office will be the only one with the capacity for optical disk "folderless files" processing of chapter 30 claims. It urges the Department to clarify the status of computer and other technological capacity at other processing centers at the earliest opportunity.

Certifications and Reports; Effective Dates

(Commission Report, pp. 85-91; VA Response, pp. 13-22)

COMMISSION RECOMMENDATION: Provide authority under all chapters to require monthly self-certification verifying pursuit of training with a bar to benefits without it for both degree and non-degree training for all rates of training (including training on less than a half-time basis), as is now being implemented under chapter 30.

VA RESPONSE: VA endorses being given this authority with the understanding that it would not be used if the study of the self-certification test shows that it is not effective in preventing abuses of the program.

COMMISSION REPLY: The Commission commends the Department for pursuing this approach which is consistent with the Commission's position that greater responsibility should be placed on veterans for conscientious use of benefits. The Commission has been advised that the study of the self-certification test should be completed in September and that the results will show that this approach is an extremely effective tool in preventing overpayments and abuses. It must be stressed, however, that the Commission has been and continues to be concerned that this approach should not be implemented until it is clearly and satisfactorily demonstrated that the Department has the necessary resources -- in personnel and in computers -- to handle the accompanying increase in workload without jeopardizing the accurate and timely payment of benefits.

As this reply is being prepared, the Commission notes that legislation has been proposed in the Senate (S. 1092, the proposed "Veterans' Education Policy Improvements Act", introduced by Senator Cranston and cosponsored by Senators Murkowski, Matsunaga, and Rockefeller) that is consistent with the Commission's report and the Department's response on this issue. The Commission stresses that the Department must continue taking the firmest possible stance concerning legitimate uses of educational assistance benefits and that the Department must be supported by all parties concerned.

COMMISSION RECOMMENDATION: Following an analysis of the effectiveness of these certifications in obtaining timely and accurate reports of changes in training status, consider modification of the requirement that institutions report changes in status within 30 days of the date of the event to a requirement that these changes be reported within 30 days of the date on which the institution has knowledge of the event.

VA RESPONSE: VA prefers to take no position on this recommendation until study of self-certification test is complete but will keep it under consideration.

COMMISSION REPLY: The Commission urges continued evaluation of the reporting requirements for institutions to the extent that the self-certification/bar to benefits approach is incorporated into the educational assistance delivery structure, keeping in mind the ultimate responsibility of the veterans involved.

COMMISSION RECOMMENDATION: Make adjustments in benefits in all chapters that are required because of changes in training time effective on the date of the actual event, rather than at the end of the month in which the change occurs.

VA RESPONSE: VA concurs with the premise of this recommendation and, in connection with the results of the self-certification test, will consider proposing legislative and regulatory action to reflect this policy.

COMMISSION REPLY: The Commission notes that proposed legislation (S. 1092) would amend the law along the lines envisioned by the Commission.

Changes of Program Limitations

(Commission Report, pp. 93-98; VA Response, pp. 23-29)

COMMISSION RECOMMENDATION: Abolish the limit on the number of changes of program (retaining restrictions for failure to progress).

VA RESPONSE: VA does not concur. The Department suggests, however, that the Commission study means of administering the law more simply and equitably, including proposing alternative procedures and/or guidelines for what constitutes a change of program and a "material loss of credit".

COMMISSION REPLY: This issue represents a major area of disagreement with the Department. Following an extensive discussion of this issue during its May 22 meeting (see pages 5 through 8 of the Commission's Official Minutes in Appendix A), the Commission stands behind its original recommendation.

The Commission recognizes the readjustment nature of educational assistance benefits and the philosophy behind the entitlement provisions. Credence is given to the concerns of the Department regarding the possibility for abuse in the absence of a limitation. Nevertheless, given the contributory nature of the Montgomery GI Bill, the limited months of entitlement available to veterans, and the greater responsibility of the mature veteran, the Commission believes the limitation on changes of program should be removed and a counseling requirement be incorporated.

The Commission's position is rooted in the belief that the fewer times the Department is called upon to make a judgmental decision, the better it is for all concerned, and consistent and equitable administration of benefits is enhanced. The current limitation on changes of program is a paternalistic restriction that may be safely eliminated. According to the Department itself, in 1988, less than three percent of all trainees made a second or subsequent change in program. This does not appear to constitute a major threat of abuse nor does the limitation present a significant deterrent effect.

As pointed out in its first report, the Commission believes that when balancing the chance that a veteran may use 36 months of entitlement without achieving a goal versus the chance that a veteran may be denied use of benefits because it cannot be demonstrated that pursuit of a third program was discontinued by circumstances beyond the veteran's control, the former is preferable. This is particularly true when the benefits are ones in which veterans -- mature adults who have honorably fulfilled military commitments -- have made substantial financial commitments.

In short, the Commission urges that, coupled with a counseling requirement, the limitation be eliminated and the Department and the Congress may carefully track the results of the removal. If a pattern of abuse develops that could not be prevented in some other manner (such as expanding the bar on courses of a recreational or avocational nature or placing greater emphasis on counseling), the issue may be revisited.

The Commission recalls that this recommendation was initially developed based on conversations with Department personnel in various regional offices who felt strongly that the current restriction was time-consuming, discriminatory, and needed to be eliminated. The

Commission also appreciates the support of the Secretary's Advisory Committee on Education for this recommendation. It is further noted that S. 1092 contains provisions along the lines of the Commission's recommendations.

COMMISSION RECOMMENDATION: Institute a counseling requirement for changes of program beyond an initial change.

VA RESPONSE: VA concurs. Department is currently looking into the best way to handle a counseling requirement and regulatory changes will be drafted at a later date for that purpose. The Commission's suggestions in this area would be welcome.

COMMISSION REPLY: The Commission points out that its recommendation for a counseling requirement for changes of program beyond an initial change was and remains coupled with its recommendation to eliminate the limitation on the number of changes permitted. Although the Commission supports making counseling available to veterans generally and requiring "upfront" counseling, it cannot support mandatory counseling after an initial change standing alone. The costs associated with a mandatory counseling requirement are another factor to be considered in this conclusion. Removing the change of program limitation should result in some savings to the Department in terms of adjudication and associated costs; this could help offset the costs of counseling.

In connection with its original recommendation, the Commission incorporates the helpful suggestion of the Secretary's Advisory Committee on Education to clarify that the required counseling is understood to be VA-approved counseling, not necessarily counseling provided by VA employees. The institutional counseling could be considered approved by VA if a prior agreement is made between VA and the institution.

Compliance Surveys and Supervisory Visits

(Commission Report, pp. 99-103; VA Response, pp. 30-33)

COMMISSION RECOMMENDATIONS:

o Monitor by exception by permitting VA to target schools for compliance survey audits based on factors outside the norm.

o Require resources of the State approving agencies to be concentrated on schools where assistance is needed or problems exist in lieu of the requirement that annual visits be made to all active institutions.

o Re-model compliance surveys and SAA supervisory visits to create problem-resolution and training opportunities, recognizing that such an approach would improve administration of benefits and recognize strengths as well as weaknesses during the feed-back process.

o Give special attention and assistance to institutions having a turnover in staff that are responsible for administering GI Bill benefits.

VA RESPONSE: VA agrees in part with the recommendations. The Department states that recent changes in the law addressed the issue of targeting schools for compliance surveys while retaining provisions that all schools be surveyed each four years. VA response states, "While we agree with the principle behind conducting compliance surveys by exception as recommended by the Commission, we also support maintaining some sort of regularly scheduled compliance survey requirement as is contained in current law."

VA supports the recommendations related to the resources of the SAA's and indicates that the current contract with SAA's provides that VARO's and SAA's must share visit schedules.

VA notes that it has always been difficult to balance the "adversarial" nature of required surveys and visits with their "helpful" nature. However, the Department states that "by focusing compliance surveys on the more potentially problematical areas, other available resources may be directed toward increasing the number of liaison visits and training sessions for school officials." VA supports taking action to ensure that available resources are directed to assist those schools in most need.

COMMISSION REPLY: The Commission concurs in the Department's position that some regularly scheduled compliance surveys should remain. However, it should be made clear, as the Department notes in its response, that these activities serve essentially two very different objectives:

compliance review and liaison activities of a helpful nature. Again, the Commission urges the Department to adopt a policy of including, when possible, positive and reinforcing statements regarding performance in the survey results furnished to an institution.

The Department pointed out that many regional offices have procedures in place for giving special attention and assistance to institutions which have experienced turnover in staff responsible for administering VA educational assistance benefits. The Commission recommends that all regional offices develop such procedures since many problems may result from a lack of understanding of VA policies.

The Commission recognizes that the resources of the Department are a critical issue in this area, but stresses that substantial compliance can be achieved and abuses can be prevented by upfront investments.

Counseling and Support Services to Veterans

(Commission Report, pp. 105-109; VA Response, pp. 34-37)

COMMISSION RECOMMENDATION: Counseling and associated support services be provided on an "upfront" basis to individuals seeking to use GI Bill benefits, as well as on a continuing basis as needed or requested.

VA RESPONSE: VA supports the Commission's recommendation. The response indicates that the "check-off" block for counseling is being reinstituted on the application form.

COMMISSION REPLY: VA's commitment to counseling is encouraging, and the Commission is pleased that the "check-off" block is to be restored on the application form. Presumably, however, checking this block would trigger a level of counseling beyond that envisioned by the "upfront" counseling to be provided to all veterans.

The Commission continues to be concerned about assisting veterans and active-duty personnel in learning about and most effectively utilizing their educational assistance benefits. As a general rule, it appears that limited efforts are made while individuals are on active-duty to advise them of opportunities. Unless a servicemember actively seeks assistance from an education services officer, information is only provided in the context of an exit briefing and processing out of the military. VA frequently is contacted by recently-discharged veterans who have no understanding as to what benefits they may have or how to use them. Additionally, some veterans are in the unfortunate situation of having lost eligibility for their benefits because they failed to understand fully the consequences of leaving the service early or of having failed to obtain a high school diploma prior to discharge.

The Commission believes that VA, working closely with the Department of Defense and the individual service branches, should be more aggressive in this area. It notes that in the past VA personnel were assigned to areas where large numbers of military personnel were stationed, including overseas locations, to assist individuals in using their benefits. The Commission urges serious consideration be given to reinstituting this practice, even if only on a limited or itinerant rotating basis.

Debt Recovery and Fraudulent Claims

(Commission Report, pp. 111-113; VA Response, pp. 38-40)

COMMISSION RECOMMENDATION: VA continue determined initiatives to facilitate aggressive and timely efforts to recover overpayments of educational assistance benefits and that adequate resources and personnel be made available to VA for this purpose. Other Federal agencies (such as the Department of Justice, the Department of the Treasury, the Department of Education, and the Department of Defense) should be required to cooperate in efforts to collect valid debts and pursue fraudulent claims.

VA RESPONSE: VA endorses the Commission's recommendations.

COMMISSION REPLY: The Commission and the Department are in agreement in this area. The Commission urges continued review of the adequacy of available resources and the extent of cooperation by other Federal agencies. The Department must be supported in its efforts to maintain a firm approach in this area.

Distinctions between Non-College Degree and Degree Training
(Commission Report, pp. 115-126; VA Response, pp. 41-47)

COMMISSION RECOMMENDATION: Remove arbitrary distinctions in the treatment of degree and non-degree programs.

VA RESPONSE: VA agrees with the Commission's recommendation that certain distinctions be eliminated. Among those it views as being outdated are the provisions pertaining to absence reporting and the Department has included a legislative proposal along these lines.

COMMISSION REPLY: The Commission commends the Department for its position on eliminating absence reporting for non-college degree training. This represents a considerable breakthrough and a step forward that would greatly enhance the administration of educational assistance programs in the future; it would bring the Department more in line with today's educational realities and assist veterans training in these programs. Continued review and elimination of unnecessary distinctions is imperative. The Commission understands that the Department intends to address issues relating to these distinctions through the task force to be established to review and make recommendations regarding standardization of all education programs (discussed below).

It is noted that S. 1092 addresses the issue of absence reporting in a manner consistent with the Commission's recommendation and the Department's response.

Measurement

(Commission Report, pp. 127-136; VA Response, pp. 48-62)

COMMISSION RECOMMENDATION:

A. Determine rate of benefits based on progress toward an educational, vocational, or professional goal through an approved program of study, shifting concern from the mode of delivery to concern about progress in attaining the objective.

B. Eliminate Standard Class Sessions as a measurement criterion and measure all programs that include classroom instruction by industry standard "units" (credit or clock hours depending on the institution's standard).

C. Permit independent and other non-traditional modes of study (defined as those not requiring regularly scheduled contact with an instructor in a classroom setting) without discrimination but limit it within the student's overall program to a maximum of ten percent of the total length of the program.

D. Offer an alternative payment schedule based on 75 percent of the otherwise applicable rate for certain programs not meeting the criteria of the "full-time pursuit" concept, such as those offered entirely through independent study, thus recognizing to a greater degree the effort required and the rate of pursuit towards a goal.

E. Rely on State approving agencies to determine what constitutes an approved program leading to an educational, vocational, or professional goal or objective.

VA RESPONSE: VA agrees in principle that the current measurement provisions for VA payment purposes are unwieldy, but does not concur with the approach taken by the Commission. Instead, VA offers an alternative along the lines of the following for consideration and discussion:

> Eliminate distinctions between rates of payment based on the mode of delivery of the instruction, i.e., eliminate the payment differential between independent study, other non-traditional modes of study, and resident training. In addition, extend payment for independent study to those courses not leading to a standard college degree. In conjunction with this, the contracting provisions (whereby an institution contracts with some other entity to provide instruction) should be strengthened, and the standard class sessions requirements should be eliminated.

The Department proposes to study this alternative to the present measurement system. The results of the study would be included in the Secretary's final report due in 1990. It is understood that this study would be carried out in connection with the task force established to address the standardization issues, as well as the distinctions between college and non-college level training, discussed elsewhere in this reply.

COMMISSION REPLY: The Commission applauds the Department for its forward-looking position and is greatly encouraged by its commitment to examine modifications along the lines of VA's alternative proposal. It is especially pleased by the Department's view on payments based on the number of credit or clock hours being pursued regardless of the mode of study and the elimination of standard class sessions. That VA would even consider proposals along these lines is viewed by the Commission as a major step forward that would do much to bring VA policies into line with realities in the education community. The Department has taken a positive and progressive posture on this issue and deserves to be congratulated.

The Commission believes that VA should move as expeditiously as possible on this matter, establishing a firm timetable and protocol for the study, so that the results of its examination may be available well in advance of its 1990 report. It encourages VA to pursue actively and seriously the proposed study and strongly endorses its objectives. Indeed, it may be appropriate for legislation to be introduced in the Congress along the lines envisioned by the Department's response to facilitate the full consideration of this proposal, as well as a complete debate on its merits within the education community.

It should be pointed out that the very complicated and unwieldy issue of "mixed measurement" cited in both the Commission's report and VA's response (page 112 of report and page 47 of response) would be significantly ameliorated by adoption of a policy along the lines of VA's proposal.

Mitigating Circumstances

(Commission Report, pp. 137-141; VA Response, pp. 63-67)

COMMISSION RECOMMENDATION: Modify the "mitigating circumstances" policy to permit students to withdraw without penalty from a course or courses up to a specified limit with a non-punitive grade without producing mitigating circumstances for the withdrawal.

VA RESPONSE: VA concurs with Commission's position and notes that legislation along these lines was enacted in Public Law 100-689.

COMMISSION REPLY: The Commission calls attention to an issue relating to the effective date of the recently enacted legislation. Specifically, there appears to be some question as to whether forgiveness applies to the first instance of withdrawal by any veteran (regardless of prior withdrawals) after the June 1, 1989, effective date, or whether beginning June 1, 1989, VA will "forgive" a veteran's first instance of withdrawal. Some clarification of the provision may be necessary.

COMMISSION RECOMMENDATION: Specify that "mitigating circumstances" may include child care difficulties.

VA RESPONSE: VA is in agreement and will propose change in regulations. [For text of proposed regulation, see page 66 of VA Response.]

COMMISSION REPLY: The Commission is pleased by the Department's agreement on this issue. It is noted that S. 1092 would amend title 38 to provide that mitigating circumstances may include child care difficulties.

Publications

(Commission Report, pp. 143-147; VA Response, pp. 68-71)

COMMISSION RECOMMENDATION: Make available on a regular basis up-to-date publications such as newsletters and manuals designed to assist institutions in administering benefits.

VA RESPONSE: VA agrees.

COMMISSION REPLY: The Commission is pleased that the manual entitled, "Certification of Students Under Veterans' Laws", published jointly by the Department and the American Association of Collegiate Registrars and Admission Officials, has now been updated, reissued, and distributed to schools nationwide. The Commission urges that VA take appropriate actions to keep this manual, which in now in a looseleaf format, updated.

The Commission continues to recommend the Department pursue the development of a subscription approach for producing and distributing a regular newsletter as discussed in VA's response, including cost-effectiveness analyses.

COMMISSION RECOMMENDATION: Rewrite the chapters of title 38, USC, pertaining to educational assistance programs (and as necessary other provisions of law) to provide for better organization, clarity, readability, and understanding (particularly in view of the termination of the chapter 34 program on December 31, 1989).

VA RESPONSE: VA agrees that provisions could be rewritten to be more understandable to the layman; however, it believes that its limited resources could be put to more effective use.

COMMISSION REPLY: Following considerable discussion at its May 22 meeting, the Commission reaffirms its original recommendation and emphasizes the need for a rewrite of title 38 -- particularly in light of the December 31, 1989, termination date for the chapter 34 program.

However, the Commission stresses that this is not a responsibility that rests solely with the Department. Indeed, the Congress has the major role as the ultimate source of legislation. It suggests that the Committees on Veterans' Affairs in the House and the Senate take the lead in developing a first draft of a rewrite and that the Congress and the Department work together to develop an acceptable legislative proposal.

The Commission appreciates that this is not an easy task nor one lightly undertaken. However, as the Department points out at page 8 of its response, "the legislation under which veterans' education benefits are paid is a patchwork accretion of individual acts and amendments enacted over a period of years" and "VA policies and procedures tend to show the same pattern of patchwork accretions as the governing legislation they implement." The Commission reiterates its position that the patchwork pattern should be rewoven and urges the Congress to take the lead in this initiative.

Remedial, Deficiency, and Refresher Training

(Commission Report, pp. 149-151; VA Response, pp. 72-75)

COMMISSION RECOMMENDATION: Make available GI-Bill benefits for remedial, deficiency, and refresher training under all of the various educational assistance programs, including the programs established by the Hostage Relief Act (HRA) and the Omnibus Diplomatic Security Antiterrorism Act, as well as the chapters 30 and 106 and sections 901 and 903 programs.

VA RESPONSE: VA agrees in principle with these recommendations except that it supports charging entitlement for benefits paid for pursuit of remedial deficiency, and refresher courses as provided in current law. VA notes that the recently enacted legislation addressing the issue of remedial, deficiency and refresher training under chapters 30 and 32 did not resolve the consistency issue with respect to chapter 106 and sections 901 and 903. VA supports the Commission's position.

COMMISSION REPLY: The Commission appreciates the fact that Public Law 100-689 addressed this issue, but stresses again the need for standardization and consistency among the various educational assistance programs.

COMMISSION RECOMMENDATION: Resolve the issue of the charge to entitlement for this type of training in a consistent manner. Based on the precedent established by the chapter 34 program, the Commission believes that there should be no charge to entitlement for benefits paid for this pursuit.

VA RESPONSE: VA is in agreement with resolving the charge to entitlement for this type of training in a consistent manner, but differs in that it advocates that entitlement charges be made for the pursuit of all courses.

COMMISSION REPLY: The Commission defers to the Congress and the Department on the issue of charging entitlement for remedial training, but again emphasizes the need for standardizing the various programs (with the exception of chapter 31, the vocational rehabilitation program for service-connected disabled veterans).

COMMISSION RECOMMENDATION: If a nine-month limitation on refresher training is incorporated in the Montgomery GI Bill programs, an identical limitation should be added to the other chapters for consistency.

VA RESPONSE: VA states that the nine-month limitation was not enacted and the issue is a moot point.

COMMISSION REPLY: The Commission concurs.

Reporting Fees

(Commission Report, pp. 153-157; VA Response, pp. 76-79)

COMMISSION RECOMMENDATION: Increase the amount of reporting fees paid on an annual basis.

VA RESPONSE: VA opposes. Department's response indicates that while the activities required by the institutions are significant, "they are decreasing as the overall number of students receiving VA benefits decreases from the peak loads of the nineteen seventies when the reporting fee was increased. In addition, the institutions clearly receive tuition from all of these students, a part of which is attributable to administration. Given the added enrollments in school provided by VA education programs, there is no need to increase the reporting fee for activities that are best characterized as a cost of doing business."

COMMISSION REPLY: Although the Commission recognizes the budgetary constraints involved, it stands behind its recommendation of an increase, especially in light of the fact that no increase in the fee has occurred since 1977. The Commission, nevertheless, appreciates the points raised by Commissioner Wickes (as set forth in his separate views in the Commission's first report) that, in the event that reporting requirements for institutions are ultimately lessened as a result of the self-certification approach, the level of the fees should be adjusted accordingly.

COMMISSION RECOMMENDATION: Provide that the amount of the fee be based on a scale, rather than a head count. For example, schools who have 5 or fewer eligibles enrolled would be paid "X", schools with 6 to 25 eligibles enrolled would be paid "Y", and so forth.

VA RESPONSE: VA agrees that the reporting fees should be a reflection of the total number of veterans who train at an institution during a calendar year. It supports in concept the scale approach, but believes that "the data for determining placement on the scale should be extracted from VA's own computer system." It further asserts that any scale should pay less per student as the number of students increases, recognizing the economies of scale for administering activities.

COMMISSION REPLY: The Commission points out that the specific scale set forth in its first report was merely an example of how a scale might be structured and not necessarily the precise scale. The Commission continues to believe that a scale approach would be more easily administered than the current head-count approach.

During consideration of this issue in its first report, the Commission explored the feasibility of a floor for the fee -- that is, institutions with fewer than a certain number of veterans would not be paid reporting fees. The Department advised at that time that the administrative costs of such a proposal were prohibitive. However, perhaps some consideration should be given to a scale which includes a floor in the interests of economy.

COMMISSION RECOMMENDATION: Include chapter 31 trainees in the count of those on whose behalf the fee is paid.

VA RESPONSE: VA would like to study this issue and will examine the need for the fee in the context of the book handling charge already being paid to institutions.

COMMISSION REPLY: The Commission continues to support the inclusion of chapter 31 trainees in the count. The chapter 31 book handling charge is not necessarily paid to the institution as many bookstores are outside the institution's administrative structure. The book handling charge is also a matter of economy for the Department as it is sometimes used to compensate a book supplier who can more easily and efficiently procure special supplies and equipment for chapter 31 trainees than VA can.

Restoration of Pay Reductions Under Certain Circumstances

(Commission Report, pp. 159-160; VA Response, pp. 80-81)

COMMISSION RECOMMENDATION: Permit the restoration of pay reductions as a death benefit and in certain other limited circumstances.

VA RESPONSE: VA agrees with recommendations and notes that subsequent to Commission's deliberations on this topic, legislative action was taken to permit restoration of pay reductions as a death benefit.

COMMISSION REPLY: The Commission recognizes the enactment of legislation permitting restoration of pay reductions in the cases of individuals who die on active duty. However, it continues to support restoration in the cases of veterans who die from service-connected causes and, specifically, those veterans who are discharged from the military through the medical care system directly to a VA facility and who subsequently die.

In addition, in connection with the recently enacted legislation, the Commission is concerned that the effect of the law is that in order to establish eligibility for restoration the deceased servicemember must have received a high school diploma or its equivalency by the time of death. The Commission understands that there have been individuals who have died on active duty and participated in the chapter 30 program but who will not be paid a death benefit because they had not completed the equivalent of a high school diploma at the time of death. The Commission urges reexamination of this issue.

Role of Continuing Education

(Commission Report, pp. 161-162; VA Response, pp. 82-83)

COMMISSION RECOMMENDATION: Make approvals of continuing education courses consistent with the stated principle of the GI Bill that programs of education must lead to an educational, vocational, or professional goal.

VA RESPONSE: VA concurs with recommendation.

COMMISSION REPLY: The Commission has no additional comment.

Standardization

(Commission Report, pp. 163-170; VA Response, pp. 84-85)

COMMISSION RECOMMENDATION: Standardize the different features of the various veterans' education programs to the maximum extent possible, consistent with their design and purpose.

VA RESPONSE: VA supports this recommendation and is in agreement with the Commission's suggestion that a task force of adjudicators and education liaison representatives be charged with compiling an accurate and reasonably complete listing of the differences in current law.

COMMISSION REPLY: The Commission is pleased that VA concurs with its recommendation and believes that the establishment of the task force is a very forward looking step. The Commission urges the Department to proceed in an expeditious fashion on this project so that the results will be available at the earliest possible opportunity.

Training and Associated Administrative Resources

(Commission Report, pp. 171-177; VA Response, pp. 86-89)

COMMISSION RECOMMENDATION: Sufficient resources be made available to carry out regular training sessions of all those involved in the administration of GI Bill benefits.

VA RESPONSE: VA supports in concept within the constraints of available resources. The Department's response notes that, toward this end, VA's FY 1990 budget requests funding for the creation of an "Adjudication Academy", which would be designed to provide a centralized or national training program for new veterans' claims examiners.

COMMISSION REPLY: A number of the Commission's recommendations -- including those dealing with training and support services, automated data processing, publications, and adequate staffing -- involve continued administrative actions or relate primarily to funding issues rather than legislation. The Commission recognizes the very difficult funding situation in which VA often finds itself and urges the Department, the Congress, and the veterans community to continue to support adequate resource levels for VA education program administration specifically and the Department generally, as well as aggressive administrative actions suggested by the Commission.

The Commission is encouraged by the overall commitment of the Department to the need for and philosophy behind training. The creation of an Adjudication Academy is a positive step; however, it should be pointed out that a consolidated-region approach to education claims processing would concentrate the need for training of education claims adjudicators in the regionalized centers.

The Commission appreciates the helpful suggestion of the Secretary's Advisory Committee on Education that training sessions should, when possible, include school and appropriate Department of Defense personnel who work with veterans' benefits. VA should explore this opportunity whenever possible.

COMMISSION RECOMMENDATION: Enhanced computer capabilities (with emphasis on an on-line facilities file) be made a priority within the Department.

VA RESPONSE: VA supports in concept within the constraints of available resources. It states that enhanced computer capabilities remain a priority within VA and that an on-line facilities file is under active consideration with an evaluation currently being prepared.

COMMISSION REPLY: The Commission urges as a priority continued pursuit of computer capabilities and associated technologies. Enhanced capabilities (including replacement of antiquated equipment) can ultimately result in long-term savings, efficiencies in service, and quality performance, since timely and efficient administration requires that the realities of VA's situation be recognized.

Last year, the Commission was advised that the Department was working to generate a consolidated report to replace the so-called "pay-cycle" listing furnished to institutions and VA personnel to assist in various administrative tasks. This project has not yet been completed. The Commission urges it be made a priority. It is an important tool for institutions in fulfilling their responsibilities.

COMMISSION RECOMMENDATION: Staffing and other resource allocation decisions take into account the reality of an increasing educational assistance caseload.

VA RESPONSE: VA indicates that "consideration is being given to the reality of an increasing educational assistance caseload."

COMMISSION REPLY: The Commission reiterates its original concerns and concurs with the Department's assessment that the consolidated-region approach "could simplify the staffing and other resource allocation decisions needed to be made as the educational assistance caseload increases."

COMMISSION RECOMMENDATION: The work-measurement criteria for the Department of Veterans Affairs reflect the non-paper aspect of the administration of benefits, the need to enhance morale, and the provision of personal attention.

VA RESPONSE: VA response states that studies are currently being conducted to evaluate VA's work-measurement criteria and performance standards and notes the Commission's concern that the current criteria may weigh too heavily on the "paper-pushing" aspects of administration.

COMMISSION REPLY: The Commission has no additional comment.

Two-Year Rule, Standards of Progress and the "85-15 Rule"

(Commission Report, pp. 179-183; VA Response, pp. 90-93)

COMMISSION RECOMMENDATION: Reaffirm the provisions of title 38 that have been effective in encouraging appropriate use of GI Bill benefits, such as the two-year rule, standards of progress criteria, and the "85-15 Rule".

VA RESPONSE: VA agrees with Commission's position.

COMMISSION REPLY: The Commission reaffirms a commitment to those provisions of law and regulation that have a demonstrated effectiveness of abuse prevention. Nevertheless, based on continued discussions with those involved in the administration of educational assistance benefits and on the results of a second survey conducted by the Commission (please see Appendix B), the Commission calls attention to a number of aspects of the two-year rule and the 85-15 ratio that may warrant further consideration. No position on these issues was reached by the Commission.

Basically, with respect to the two-year rule, there are concerns that the law and accompanying implementation materials are entirely too complex and unwieldy. Revision of the law, particularly in terms of a rewrite of title 38, would go far in ameliorating problems rooted in this aspect of the provision. In addition, it is noted that the law presumes that public and tax-supported institutions will always offer quality programs since they are generally exempt from the rule whereas private and proprietary schools are not. Finally, the application of the rule to individual programs and courses and branches and extensions (as opposed to the institution itself) -- regardless of the length of time the institution has been in operation and the institution's history of compliance - is of some concern. There are those who argue that some institutions are precluded as a result of the two-year rule from offering courses that keep pace in a rapidly changing technological environment; conversely, others argue that there are adequate waivers and exceptions available to enable institutions to offer courses meeting the needs of students while protecting the GI Bill investment.

Regarding the 85-15 ratio, the Commission is concerned with inconsistent application and recordkeeping requirements. Under current law, the requirements of the 85-15 ratio do not apply to the approval of courses offered at institutions where the total number of GI Bill recipients enrolled are less than 35 percent. However, the Secretary retains authority to apply the requirement if there is reason to believe that the enrollment of such recipients in any one course exceeds 85 percent. Therefore, in practice, although institutions do not have to demonstrate compliance with the 85-15 ratio in order for a course to be approved for GI Bill purposes, records must be kept and be made available to VA upon request that document the 85-15 ratio is not exceeded, even if only a very small number of veterans and other eligible persons are enrolled at the school. Despite the fact that overall enrollment of VA educational assistance recipients is low and that very few schools even come close to enrolling more than 35 percent, the 85-15 ratio can still operate to restrict the availability of opportunities -- particularly in the case of very small and specialized graduate-level training. For example, if total enrollment in a doctoral program of advanced aerospace engineering is three, and two of the three are GI Bill recipients, no additional veteran may be permitted to enroll in the program, despite the fact that less than five percent of the total student enrollment is in receipt of VA educational assistance benefits.

As previously indicated, the Commission raises these concerns for the purposes of calling attention to them but has not reached any consensus. These requirements, together with standards of progress requirements and other provisions of title 38, have generally served both the veteran and the Federal government well. Nevertheless, some minor modifications may be appropriate to ensure that they continue to do so.

COMMISSION RECOMMENDATION: Apply these provisions across the board to all the programs of educational assistance administered by VA.

VA RESPONSE: VA states that "This is an issue that should be studied as part of the Commission's standardization recommendations, consistent with the design and purpose of the programs."

COMMISSION REPLY: The Commission concurs.

COMMISSION RECOMMENDATION: Incorporate into the criteria for determining waiver or applicability of both the two-year rule and the "85-15 rule" those individuals training under the chapter 106 program.

VA RESPONSE: VA favors this recommendation and has already initiated discussions with DOD to accomplish this result.

COMMISSION REPLY: The Commission has no additional comment.

Value of Home Study Courses; Educational Assessment

(Commission Report, pp. 185-186; VA Response, p. 94)

COMMISSION RECOMMENDATION: No finding was made by the Commission on this issue.

VA RESPONSE: VA takes note of the Commission's finding and has no comment to make or add.

COMMISSION REPLY: The Commission offers no further comment. The issue of quality assessment within the education community is not confined to any one particular mode of study.

Work-Study Program

(Commission Report, pp. 187-191; VA Response, pp. 95-97)

COMMISSION RECOMMENDATION: Overhaul VA's work-study program to provide for a flexible progressive payment scale that could be used to attract and retain quality work-study students, especially in high-cost areas.

VA RESPONSE: VA does not support the recommendations of the Commission for a progressive payment scale, noting that the proposal to establish a payment schedule for high-cost areas merits further study. In the case of a State where the State minimum wage is higher than the Federal minimum wage, VA proposes that the higher wage be paid.

COMMISSION REPLY: While recognizing VA's significant budgetary constraints, the Commission reiterates its original recommendation for a ten-step approach. As pointed out in its first report, the issue in the case of VA's work-study program is not always having the money to create the positions, but rather finding individuals interested in filling the positions that are available.

The Commission's recommendations attempt to resolve situations in which an applicable State minimum wage exceeds the Federal minimum wage. Both VA and proposed legislation (S. 1092) support paying the higher of the two. Nevertheless, the Commission remains concerned that this does little to help the work-study student placed in a work-study position at a VA regional office or other off-campus position who incurs additional work-related expenses, including the costs of commuting. The Commission suggests some consideration be given to incorporating more flexibility or a transportation allowance under certain conditions.

COMMISSION RECOMMENDATION: Expand eligibility for VA's work-study program to individuals training under the chapters 35 and 106 programs.

VA RESPONSE: VA opposes. Its position is that chapter 35 recipients may utilize "many government-wide opportunities for educational assistance"; it takes no position insofar as inclusion of chapter 106 trainees.

COMMISSION REPLY: The Commission reaffirms its original recommendation. It specifically disagrees with the argument that students training under the chapter 106 program tend to be full-time employees and part-time students, thereby obviating the need for supplemental income. Although the Commission had no statistics to make a case for or against this argument, it notes that promotional materials for the chapter 106 program often depict recipients as full-time students, completing their military obligations on weekends and during school breaks.

Further, the Commission restates its concern that the issue is not always having necessary funds to create positions, but rather finding individuals interested in filling the positions that are available. Expanding the universe of eligible students by including chapters 36 and 106 trainees would be helpful in realizing the mutual goals of the program -- supplemental income for students and increased personnel resources for administrative tasks.

The Commission further suggests that if chapter 106 eligibility for the work-study program is added, the list of authorized activities be expanded to include by specific reference work associated with various guard and reserve units that involves administration of chapter 106 GI Bill benefits.

ADDITIONAL ISSUES

Accreditation as a Threshold for Approval

Having failed previously to reach a consensus on whether non-accredited institutions should continue to be able to be approved for VA educational assistance purposes, the Commission again spent some time discussing this issue at its May 22 meeting. (Please see pages 20 through 22 of the Commission's Official Minutes at Appendix A, pages 1 through 7 of the survey overview at Appendix B, and the May 25, 1989, letter from Commissioner Petersen to the Commission's Executive Director at Appendix C.)

At issue specifically are post-secondary institutions of higher learning that offer college-level courses and the quality assurance that accreditation may confer, including transferability of earned credits to other institutions. It is noted that both Department of Education and Department of Defense policies are to approve only courses offered by accredited institutions. Thus, the option of supplementing GI Bill benefits with other Federal student aid would be unavailable to veterans enrolled at non-accredited institutions. Nevertheless, it was also noted that non-accredited institutions have always had a role in VA educational assistance programs and that a number of non-accredited institutions do provide quality educational opportunities.

The Commission acknowledges the dilemma presented by this issue but was unable to reach any consensus or agreement on a recommendation.

Effect of the Computer Matching and Privacy Protection Act

It has come to the Commission's attention that Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988, may have a significant and detrimental impact on VA's administration of educational assistance programs, particularly under the chapters 30 and 106 programs. The Commission urges that the application of this new law be carefully examined and adjusted appropriately to facilitate timely and accurate delivery of benefits. The Commission is aware of efforts within VA and the Congress toward this end and supports their continuation.

Enrollment in Chapter 30 as a Retention Tool

Under the Montgomery GI Bill, individuals generally have a one-time opportunity to make a decision regarding participation in the educational assistance program. Upon initial entry into the military, a new servicemember is required to make an affirmative disavowal of participation. In the absence of a disavowal, an individual establishes potential eligibility for the program and a reduction in pay of $100 a month for the first twelve months of service occurs.

The Commission believes that consideration should be given to providing an additional window of opportunity at the time of individual's decision to re-enlist in or extend a commitment to military service. While furthering the retention value of the program, such an opportunity could prove valuable to the young man or woman who, upon entering the service, fails to enroll in the program. A college education or other training may not be a goal -- particularly for those who are not college-oriented or who lack a high school diploma. Three or four years later, however, when considering future plans, the individual may have come to recognize the importance of additional education. Under current law, no option for participation is available.

It is recognized that enrollment rates in the Montgomery GI Bill program have been generally quite high -- particularly in the case of the Army where sign-up rates have been averaging approximately 90 percent of new recruits. The Commission would in no way want this proposal to diminish this aspect of the program by permitting individuals to delay enrollment in anticipation of a subsequent opportunity at re-enlistment. By making available to the individual service branches the option of offering participation as a re-enlistment bonus or a retention tool, this prospect could be controlled.

Fee-Basis Medical Care for Chapter 31 Trainees

The Commission had only a limited opportunity to review the medical care aspects of the chapter 31 vocational rehabilitation program for service-connected disabled veterans. A number of issues were identified, including the level of cooperation and coordination within the Department between the Veterans Health Services and Research Administration and the Veterans Benefits Administration. Of specific concern was the provision of medical care services to chapter 31 trainees on a fee basis and the sharing of information through VA's automated data processing systems.

The Commission made no recommendations in this area, but urges continued and aggressive actions to facilitate the levels of cooperation and coordination envisioned in the law. It may be helpful to request the Secretary's Advisory Committee on Rehabilitation to review specifically the fee-basis program and the opportunities for improvements in data sharing.

Rates of Benefits for Training While on Active Duty

Under current law, section 1682(b) of title 38 limits benefits for individuals training while on active duty to the rate of tuition and fees or the full-time rate, whichever is the lesser. The historical derivation of this restriction is unclear; however, it may be related to the military pay structure, the "stipend" philosophy of educational benefits, or the presumption that individuals on active-duty could train at no more than a part-time rate.

In practice, this limitation creates a significant disincentive to use GI Bill benefits while still on active duty. Take for example the case of a full-time program of education offered over a period of three months with total tuition and fees of $150. The chapter 30 veteran enrolled in this program would receive benefits at the full-time rate for the period of enrollment -- $300 a month for a total of $900. The active-duty servicemember training under chapter 30 would be limited to a total payment of $150 -- the cost of tuition and fees; this payment would be distributed across the enrollment period, and the individual would be charged with having used three full months of entitlement, significantly eroding the total dollar value of the earned benefits.

It should be noted that an individual training while on active-duty must have the approval of his or her commanding officer and the education services officer prior to initiating a program of education. In addition, a bar on duplication of benefits (section 1781) prohibits individuals from receiving benefits under both title 38 and the services' tuition assistance plan.

While there is no empirical data on the title 38 limitation, anecdotal evidence suggest that it may have a deleterious effect on the Montgomery GI Bill in terms of its use as a retention tool. Individuals, particularly those who have received bonuses and kickers designed to encourage longer and more critical skill training, may be tempted to leave the service in order to take advantage of the benefits. Cutbacks in the Department of Defense's tuition assistance program may further aggravate the problem. Additionally, this provision makes adjudication of educational assistance claims in the cases of individuals who enroll in school while on terminal discharge leave from the military significantly more complicated.

The Commission feels that unless there exists good reason to the contrary, consideration should be given to repealing this restriction.

APPENDIX A

COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

Official Minutes of the Formal Session

Monday, May 22, 1989

Convened in the Hearing Room

Postal Rate Commission
1333 H Street, N.W.
Washington, D.C.

In accordance with Section 320(c), Public Law 99-576, requiring the Commission To Assess Veterans' Education Policy to submit a final report not later than 90 days after the date on which the Secretary of Veterans Affairs has submitted an interim report to the Committees on Veterans' Affairs of the House and Senate, the Commission convened this meeting to establish its views on the Secretary's Interim Report on Veterans' Education Policy. In attendance at this formal session were:

Commission Members:

Ms. Janet D. Steiger, Chairman
Mr. William A. Fowler
Mr. Charles R. Jackson
Mr. Oliver E. Meadows
Mr. Allan W. Ostar
Dr. John C. Petersen
Ms. Bertie Rowland
Mr. C. Donald Sweeney
Mr. John F. Wickes, Jr.

Commission Ex Officio Members:

Mr. Michael Cuddy, Representative of the Chairman, Senate Veterans' Affairs Committee
Ms. Celia Dollarhide, Representative of the Secretary of Veterans Affairs
Mr. Chris Yoder, Representative of the Ranking Minority Member, Senate Veterans' Affairs Committee

Commission Executive Director:

Ms. Babette Polzer

Representatives of the Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs:

Dr. Dennis R. Wyant, Director
Mr. John L. Fox
Mr. William G. Susling
Mr. A. Wayne Taylor
Mr. Ted Van Hintum
Mr. Alan R. Zoeckler

MINUTES OF THE MEETING

The meeting was convened at 9:15 a.m. by Chairman Steiger. Expressing her positive feelings that the Commission would be able to conclude its work in this session, the Chairman noted that the day's agenda would be fairly unstructured as the Commission considers what its reply will be to the Interim Report on Veterans' Education Policy recently submitted by the Department of Veterans Affairs (VA). That report was in response to the Commission's initial report which was submitted to the House and Senate Committees on Veterans' Affairs on August 29, 1988. Based on what the Commission decides during this formal session, a draft reply will be prepared for review by the Commission members by the end of June. The Commission's final report is due to the Secretary and to the Veterans' Affairs Committees no later than July 27, 1989, which is 90 days after VA submitted its report.

The Chairman noted that the Senate will hold hearings on June 8, 1989, and the House tentatively sometime in July. Senator Alan Cranston, Chairman of the Senate Veterans' Affairs Committee, will be introducing legislation prior to the June 8 hearing based, in part, on the recommendations and findings of the Commission. Chairman Steiger welcomed comments from the Commission members regarding the proposed legislation as she prepares for her testimony on that date.

Dr. Dennis Wyant, Director of VA's Vocational Rehabilitation and Education Service was introduced. Briefly noting the change to Departmental status since the Commission last met, Dr. Wyant mentioned that Mr. Allan Clark, who has been nominated to be VA's Assistant Secretary for Liaison and Program Coordination, would probably assume jurisdiction for the Department's future work with the Commission.

Dr. Wyant announced that the claims processing for the Montgomery G.I. Bill - Active Duty (Chapter 30) would be regionalized to four sites beginning July 1, 1989. The Buffalo regional office would handle Chapter 30 processing for the Eastern Region, Atlanta will process claims from the Southern Region, St. Louis will now handle Chapter 30 claims for the

Central Region, and Muskogee will be the regional processing center for the Western Region. St. Louis will continue as the test site for the optical disk prototype system.

In looking to the future, Dr. Wyant mentioned that the Veterans Benefits Administration was planning for the transition of thousands of potentially eligible persons under the old G.I. Bill (Chapter 34) to Chapter 30 beginning January 1, 1990. He said that it has been difficult to date to get any specific estimates of the potential number of persons who might be qualifying. Some estimates are as low as 11,000 possible participants being eligible for Chapter 30 on January 1, 1990, and other estimates are as high as 20,000.

One ancillary project VA is currently working on is through the Defense Manpower Data Center (DMDC), whereby Dr. Wyant indicated the Department has been able to identify approximately 700 deceased veterans with eligibility to Chapter 30, for which outreach efforts are underway. That number may be low, so VA is working with the service departments to try to find a better way of checking to be sure no one is missed that would be eligible for the Chapter 30 death benefit.

For the Chapter 106 program, Dr. Wyant said that the Department for the first time is in a position that they can go back and do a reconciliation of any inconsistencies in the records of individuals in the reserves. Out of the approximately 120,000 trainees, there are approximately 22,000 records that are being reexamined, which will put the Department in the best shape ever in regards to this program.

Regarding the recommendations of the Commission, Dr. Wyant added that insofar as the professional staff of the Veterans Benefits Administration is concerned, there was general support for the recommendations with only minor revisions, although this might not have been completely reflected in the Interim Report.

Chairman Steiger also wanted to extend appreciation to the professional staff of the VBA for their cooperation, especially in view of the enormous transition and problems in going from a non-cabinet office to a cabinet office. Even with those constraints, the cooperation of the professional staff has maintained a very high level, and she wanted the Commission to know that.

Turning then to the Interim Report on Veterans' Education Policy of the Department of Veterans Affairs, the Chairman directed the discussion to the basic questions at issue and towards those areas in which there was dispute. The first area of discussion focused on the consolidated-regional approach to the benefit-delivery system structure. It was noted that VA supports a consolidated-regional approach in principle but that the persons responsible for liaison and compliance surveys should continue to be based in each of the 58 offices, as well as the concept of an "education ombudsman." In response to a question from Dr. Petersen, Ms. Dollarhide remarked that going to regional processing could indeed cause some personnel staffing problems initially. In addition, currently each regional office performs compliance surveys in their respective states; it is naturally a financial consideration as well in wanting to keep this system rather than having a survey team go out from each of the regional processing centers to all of the various states.

Ms. Dollarhide also revealed in response to a question from Mr. Meadows that this Chapter 30 regionalization is being used to study the feasibility of the consolidation of all education claims processing. She said that right now the VBA was looking especially at Chapters 32 and 35 as possibilities for consolidation given their relatively small numbers. Right now, Chapter 30 processing will begin at the regional processing offices on July 1, 1989.

Mr. Sweeney expressed his concern about the education ombudsman reporting to the Veterans' Services Officer as explained in the VA's report. The Commission had suggested that there be some direct line of responsibility and authority flowing through the education offices at the four sites, and it was not clear how the education ombudsman's reporting to the Veterans' Services Officer might in fact lead to smooth operation of all programs operating from those four sites. In response, Ms. Dollarhide noted that at this point the Department was decentralizing Chapter 30 into four sites and holding to the existing structure as much as possible so that right now there will not be a separate "Education Division." This is basically because with the decentralization of Chapter 30 there is not much of a workload right now and it will be a year or two before the Department can really know. Things are in a transition stage right now, Ms. Dollarhide said, and the Department is staging things in a little at a time. Currently, the Education Liaison Representative reports to the Veterans' Services Officer who reports to that regional office Director.

Mr. Sweeney suggested as these plans continue to develop and to materialize that the Commission continue with its recommendation that the education ombudsman have a direct link with the four centers as opposed to having direct line authority with an in-state regional office. There may be times, he said, when the education ombudsman might need the authority to go around the in-state office director, if necessary.

With Mr. Sweeney's caveat that the education ombudsman be given direct line authority with the regional processing offices, the consensus of the Commission was to accept ~~VA's~~ main thrust of agreement that the education programs should be regionalized. As Mr. Meadows added, VA is in a "horrible, miserable money situation," and all that can be done at this point is to express a concept of a regional approach and to stress that there be an ombudsman with a "straight wire" to each regional processing office rather than simply being a veterans' service representative. The way it is right now, Mr. Meadows continued, if you call into one of the offices, all that happens is a "generalist" makes a memo of the call and ships it on to somebody else. This is not what the Commission wants. The Commission wants a person that can make direct contact and to give direct answers to questions as opposed to triggering a piece of paper "floating around in the system."

Adding to this latter point, Ms. Rowland expressed her opinion that another advantage to a direct link of the ombudsman to the regional center is "equal application of the law" in that particular region. The vast majority of problems in the past have been differences in implementation from regional office to regional office. One reason for consolidation into regional centers is to allow equal implementation of the law. Mr. Ostar agreed, and asked that Ms. Rowland's point be made a part of the Commission's reply, to which there was general agreement.

When asked if the other three regional processing offices would have the optical disk system, Ms. Dollarhide said this is not known at the moment. The optical disk is still a prototype being tested in St. Louis. In the long run, there is sure to be some type of automation similar to that.

Regarding the next issue of certifications, reports and effective dates, Ms. Dollarhide pointed out that the self-certification test is being studied under contract and the results should be completed in September of this year. The VBA expects those results to show self-certification is effective. The Chairman wanted to commend VA for attempting this approach, which reflects the Commission's feeling that responsibility should be placed on the veterans more than it has been in the past. "It's quite a breakthrough, and it takes some courage to pursue it. There should be some note of commendation for their willingness to try something that is rather completely different," she said.

To this, Ms. Rowland commented that the Commission should emphasize that VA has to be given the resources and technology to process those claims for payment in a timely fashion and never let it get behind. She said that is an area that could very easily cause delays in veterans' payments. Agreeing with this, Mr. Meadows wanted to emphasize that Congress should reiterate a "moral support" of VA in that there should be no "foolishness out of the beneficiaries." This would be in keeping with the Commission's report, the Chairman added, that VA should be supported by the Congress in this effort.

The next issue, changes of program limitations, represents a major area of disagreement between the Commission and VA. Speaking on behalf of the Vocational Rehabilitation and Education Service, Mr. Alan Zoeckler noted that in addition to the concerns in the report, which primarily center around the abuses which took place following the World War II/Korean period, but particularly in the Vietnam program, is the fact that traditionally "readjustment" has always been one of the primary features of all of the education programs VA has. If VA were to go to the point of eliminating program changes, it would move away from the readjustment aspect. "An individual can use his benefits for readjustment, but unless you adopt a philosophy that he's entitled to spend all of the benefits once readjustment is achieved, then you really have to go to the basic law." He noted that, in other words, if the veteran's objective is to get a Masters degree, and once that objective is achieved, he has another 15 months of benefits remaining, unless something is done to the basic law with respect to allowing this, program change is the primary mechanism VA has to control people from taking courses for self-improvement. A significant number of people have gone through the programs, achieved their readjustment objective, and still have remaining entitlement. This is one thing that has gone into the budget projections over the years, because if everybody used all 45 months, for instance during the Vietnam Era, the costs of that program would have been significantly more than it has been in the past. Mr. Zoeckler stressed that as long as the law talks about "readjustment" as one of the primary reasons, then VA has a responsibility to monitor that.

In response for a point of clarification question from Mr. Wickes regarding whether in the absence of a program change limit the expenditures for the Vietnam Era would have more significant, Mr. Zoeckler replied that this was absolutely true. What VA experienced in many cases, he said, was that individuals got their degree, and then immediately enrolled in other courses saying they were changing their vocational objective but in essence were taking courses clearly for self-improvement or avocational purposes. VA has to pay benefits, because under the law individuals are authorized a certain number of changes. He cited the case of an individual who was a medical doctor, but because he had entitlement remaining, took courses in television repair. Mr. Zoeckler expressed his opinion that this kind of thing was not the intent of the law. If the Congress wants to change the law, he said, so that if an individual serves "x" number of months active duty and participates in the program, i.e., the Montgomery G.I. Bill, he or she is entitled to 36 months of benefits and it doesn't matter how those benefits are used, that would be a different story. In that circumstance, Mr. Zoeckler said he would fall back on the philosophy that VA at that point owes the veteran a responsibility to provide counseling services to remind them they only have a certain number of months of benefits and to help them use those benefits in the best way towards their aptitudes, skills, etc. This is the reason VA supports the Commission with respect to counseling, which is also informational counseling.

Mr. Meadows said that this issue goes even further than what Mr. Zoeckler mentioned. Up to now, he noted, Congress has made up its mind and never really seriously considered the idea that this was a simple dollar benefit. It's not just the issue of those who choose to burn up the entitlement should be allowed to do so, for self-improvement, etc., but the biggest group, Mr. Meadows contends, is the group that doesn't use any of the entitlement and comes along with the logical argument that if others can use the entitlements in a frivolous way, why can't they collect theirs in cash? Giving ground here, he said, isn't where the Commission really wants to be. Congress up to now has been fairly assertive that there is supposed to be a businesslike pursuit of a program of education. Mr. Meadows expressed his opinion that the Commission should let Congress know that it doesn't favor a change of that sort, and he said he is inclined to defer to VA's concern here.

Chairman Steiger pointed out that the Secretary's Educational Assistance Advisory Committee concurred with removing change of program limitation with clarification that required counseling be VA-approved counseling and be required for changes of program beyond an initial change only in those cases in which the time required to complete a degree program increases the original required completion time by ten percent or more.

Dr. Petersen indicated that there is no way to get away from the psychology of entitlement on the part of the individual veteran, particularly given the Montgomery program where the veteran has contributed during his or her period of service. This is going to be the kind of doctrine that has been applied to purposeful program selection and limitation of changes, which may be difficult to sustain in the future given this kind of program and the way people feel about it. Mr. Ostar also pointed out that there is a fundamental difference between the Montgomery G.I. Bill and the Veterans' Readjustment Act in that the G.I. Bill has as its primary purpose recruiting and retention of qualified individuals whereas the Readjustment Act had a very different set of circumstances, and one might not be able to equate the two under the same heading of "readjustment."

Mr. Zoeckler said that it is a well-known fact that the Chapters 30 and 106 programs were enacted as recruitment and retention to help the All-Volunteer Service. It is very clear, however, the Congress continued to rely quite heavily on the word "readjustment." Mr. Yoder concurred in Mr. Zoeckler's comments that readjustment is a primary purpose of the education programs.

The concept of "readjustment" is not precluded in the context of the Commission's report, Ms. Rowland pointed out, but is enhanced. A person may have to adjust themselves several steps along the way. The stance of the Commission in its initial report was that perhaps changes of program were not being implemented equally across the nation but that a skilled veterans' coordinator would be able to get a change for their students, and it made it unclear to those who did not have the assistance of a skilled veterans' benefits counselor or veterans' coordinator that they actually might be "robbed" of their educational benefits and their opportunity to readjust. Ms. Rowland suggested that every time someone wanted to change their major or their program that he or she be required to go in for counseling. That would direct them in a new direction, making them make a conscious decision to change, which would probably discourage people from abusing it.

The consensus, as noted by the Chairman, was to stress the paramount importance of the counseling mechanism and that the advice of the Secretary's Advisory Committee be accepted to clarify that this is to be VA-approved counseling, whether within the institution or not.

After much discussion, the Commission agreed to the "Wickes Proposal," set out by Commission member Wickes, which was "to stick with the Commission's original report, recognize that there is a potential for abuse, direct that they be alert and track it, and also recognize to ensure that the availability of change of program doesn't thwart the purpose of readjustment." In other words, as Mr. Wickes noted, "Go to the door and see if the abuse walks in."

Having reached a consensus on the changes of program issue, the Commission turned its attention to the area of compliance surveys and supervisory visits. Chairman Steiger noted that the distinctions made in the Department's report is mainly one of degree rather than difference. While VA agrees in principle with the conduct of compliance surveys by exception, they still support some regularly scheduled requirement. VA notes in its report that the current contract with the SAA's provides that the VA regional offices and SAA's must share their visit schedule, and they should enhance coordination, and direct energies and resources in a coordinated effort.

There was no objection to acceding to VA's position that some regularly scheduled compliance surveys should remain, but Mr. Ostar noted that it should be made clear, as VA notes in its report, that they are dealing with essentially two objectives, compliance and liaison activities where the Department is being of a helpful nature. There is a certain schizophrenia in this regard in the real world. The basic point, however, is that VA should make the most of resources, and the Commission defers to VA on whether there should be a regular schedule or not.

Ms. Rowland added one comment that somehow the Commission should empower VA to make positive statements about a school's performance in their compliance survey responses. It makes it difficult for school veterans' coordinators in meeting with their school presidents when all they ever see are negative comments. This, however, Dr. Petersen noted, is a problem of having enough staff and time to look at enough things. It is easier to pursue this by exception.

As noted by Chairman Steiger in this regard, VA points out in its report that many regional offices already have in place procedures for giving special attention and assistance to institutions which experience turnover in staff that are responsible for administering G.I. Bill benefits. The Commission stressed that it would like to see all regional offices with such capacity. A great deal of the problems with compliance might be a lack of understanding.

Regarding counseling and support services to veterans, there was no disagreement between VA and the Commission. It was noted that the "check-off" block is being returned to the veterans' application form. Although there may be some problem of having counseling when the veteran applies for benefits, since by that time he or she has generally already decided on a school and some sort of program of education, it was stressed that even at that point in time, even informational counseling about the benefits would be useful.

Mr. Zoeckler mentioned that DOD does a good job, as witnessed by the participation figures on Chapter 30, of counseling people at the start of the program. VA frequently runs into problems with people coming to them a few months after getting out of service who don't seem to understand in many cases what program they've been participating in, etc. One of the problems today is getting informational counseling to the active duty serviceperson well before his discharge, such as what he or she is going to be entitled to if the active duty contract is completed, information about possible kickers, etc. The program is just now getting into a position where VA is getting lots of complaints from veterans that they just didn't know or weren't told before accepting a discharge about what they might be missing out on or giving up. The military does have a strong educational services officer system, Mr. Zoeckler emphasized, and they do attempt to provide counseling, but in many cases these individuals are outbased.

It seems that there should be some "trigger point" to kick out information to servicepersons, the Chairman remarked. Mr. Zoeckler said that he believes it should be a "sit down" session where the serviceperson's attention can be gotten on a one-to-one basis. All that is provided now is when the individual walks into the education services office and inquires about what he or she might be eligible for, or upon outprocessing when he leaves active duty. This is not the time, however, as counseling needs to be provided months before release from active duty. After all, one of the purposes of the program is retention, he added.

Mr. Ostar also mentioned the new program, CONAP, Concurrent Admissions Program, being tested by the Army. Under this program, an individual meets with and signs up with a postsecondary institution participating in this program before entering on active duty. Counseling is provided as well as followup while on active duty. He also noted, that there is a difference among the services in the purposes for which they use the G.I. Bill. The Army is not concerned about retention but with recruitment. The Navy and Air Force, however, are more concerned about retention.

Chairman Steiger commented that these were very good points, and the Commission would "flag" these points as issues that should be noted for further consideration and study.

After briefly noting the agreement and support on the issue of debt collection between VA and the Commission without further discussion, and after a short break in the proceedings, the Commission examined the issue of the distinctions between noncollege degree and degree training. The Chairman pointed out that VA agrees that the provisions regarding absence reporting and regulations affecting these reportings are outdated. She expressed her opinion that this is a "massive breakthrough" for VA to take, and that there should be a word of commendation to the Department for dealing with this thorny situation with a true step forward. The Commission agreed to include such a commendation in its report. The remaining points made regarding this issue, however, were directed toward the measurement area, which the Commission next addressed.

It was pointed out that VA will study the feasibility of eliminating standard class sessions as a measurement criterion, the elimination of the payment differential between independent study, other non-traditional modes of study, and resident training; the extension of payment for independent study to those courses not leading to a standard college degree and strengthening the contracting out provisions. The Commission noted that the fact VA would even consider these proposals is significant and would exhort that they go forward and pursue them once the results of their study are completed.

Ms. Rowland stressed the concern about alternative modes of delivery and the fixed 50-minute class session standard. She concluded that if a state has determined that a particular mode of delivery is acceptable for that state and that the program was acceptable, there really is no recourse except to accept that and to measure all coursework by the industry standard. Chairman Steiger added that given the existing state approving agency system, this is where reliance should be placed and to allow them to make the determination.

Mr. Sweeney noted that the SAA's could and would be willing to accept the responsibility of determining the acceptability of a school's standards but that they would not do it in isolation. Instead, he referred to the triad that now exists of the federal, private, and state sectors that would have to be included. He noted that he has difficulty, however, in drawing a line between or separating the issue of standard class sessions and alternative delivery systems.

Mr. Susling agreed, noting that this is not a "black and white" issue where you can draw a line and on one side of the line is residence training, traditional mode of delivery, and on the other side is non-traditional independent study. What actually exists, however, in real life is a school that will offer classes on a Saturday at the beginning of a term in September, for example, another Saturday in October, another Saturday in December, and in-between the students will be doing independent study projects which will be turned in in December and a final examination given. In effect, Mr. Susling said, at some point they start to deviate from 45-minute class sessions offered three times a week to a deviation where you have 45-minute class sessions offered every three weeks, and they're mixed up with independent study. What VA is trying to get at in its report at the end is that "as soon as you say here we have resident training, here we have independent study, you have to have two different rates of payment, then you have to draw a line somewhere...." The question to be answered is whether it is worthwhile to absolutely insist on paying resident training differently than independent study. To do that, you have to look at all modes of delivery of what used to be called non-traditional. This is why VA is requesting a chance to take a look at the whole situation and to make a recommendation to Congress that takes into account this whole issue. Mr. Susling expressed his opinion that it is now time to take a look at whether those training by independent study should continue to be paid differently; and if they should not be paid differently, then all the other questions such as what is resident training and how many standard class sessions they have to have each week are really moot questions.

This complex matter continued to be discussed at length, and as the Chairman noted, this is an issue over which all sides have struggled. The biggest point, however, is that VA has acknowledged that it is too complex, education is moving into different delivery modes, and that they are willing to come up with something in the final report. She pointed out that in one sense some of the proposals of the Department are further reaching suggested solutions than even the Commission dared come up with, and that it should be noted that there has clearly been some very enlightening and innovative thinking on their part. The Commission agreed to support the efforts of VA regarding this complex topic.

Regarding the technical measurement issue of "mixed measurement," Mr. Sweeney suggested that the Commission drop any kind of proposal on it. One of the original considerations regarding mixed measurement, noted Ms. Polzer, was the concern about absence reporting. If, as VA proposes and the Commission supports, absence reporting is eliminated, then this concern for mixed measurement would also be eliminated.

There was consensus and encouragement among the Commission's members was that the direction in which VA is looking regarding the measurement issue is good, and the Commission fully supports these efforts. The Commission agreed especially with the Department's view toward examining whether payments should be based on the number of credit or clock hours being pursued regardless of whether the instruction is being provided through a traditional classroom setting or through other non-traditional means, including independent study. The Commission also encouraged VA as part of its measurement study to consider proposing legislation to eliminate the mixed measurement provisions of the law.

The mitigating circumstances issue having already been addressed to the Commission's satisfaction by the Congress was dismissed without further discussion, and the next item on the agenda was in the area of publications and information. In this regard, the Commission took exception to the issue of the rewriting of title 38, United States Code. Chairman Steiger pointed out that in another section of its report, VA agrees that the education laws are a patchwork of different laws over time addressing specific concerns. Mr. Yoder, on the staff of the Senate Veterans' Affairs Committee, agreed that it is a mess at the present time and needs to be fixed.

Ms. Dollarhide reiterated the Department's position that this is something it just doesn't have the resources to accomplish. Chairman Steiger acknowledged that it is a resource problem but that VA should be included in the "loop" of any rewriting effort. The Commission agreed to press its position that a rewrite of title 38 is absolutely necessary, and that they would suggest to Congress that perhaps an ad hoc committee should be established to accomplish this. It was not the intention of the Commission that VA should take the responsibility to accomplish this task. It is, however, a task that the Congress should ensure is completed.

Regarding the issue of remedial, deficiency, and refresher training, the only area of major disagreement between the Commission's position and that taken by VA is the entitlement charge factor. Ms. Polzer noted that recent legislation addressed some of the issues of remedial, deficiency, and refresher training under some of the education programs, but not under others. The charge to entitlement provision still varies, however. Chairman Steiger remarked, however, that in view of the recent legislation, Congress has made its intent clear in that entitlement should be charged. As such, that matter seems to be settled. Mr. Meadows agreed, and the Commission expressed its concern that all programs should be standardized to this same extent.

The issue of entitlement charges for Chapter 31 was also mentioned. Ms. Rowland noted that under that program quite frequently a great deal of remediation is needed for those students to be able to continue their training. She proposed, therefore, that Chapter 31 students be excluded from the standardizing proposal of the Commission. Mr. Zoeckler added that Chapter 31 is a totally separate program with respect to that primary issue of remediation. There are issues with respect to remediation that are peculiar to each individual veteran with respect to Chapter 31. He said that it is a good point to separate that program. In the remediation effort with respect to Chapter 31, each course is individually reviewed by the counseling psychologist before it is approved for the veteran's enrollment as opposed to the other programs where if a particular department in a school says the student should take a certain type of course, there is no further review by anyone else.

The Chairman reminded the Commission that when they first talked about the issue of standardization, they immediately set Chapter 31 aside. This program deals with the disabled and the injured, and the rehabilitative structure of the program is more of a one-on-one individual program. Standardization should not be applied to this program.

The next issue for discussion was restoration of pay reductions under circumstances. It was noted that Congress has already taken an initiative in this regard. Ms. Polzer mentioned, however, that the Commission had recommended, in addition to a death benefit, certain other circumstances under which restoration should be made. For example, the Commission wanted restoration in circumstances such as when an individual is injured during active duty training, and therefore establishes eligibility for the Chapter 31 program. This type of situation was not included in the recent legislation. Mr. Jackson also mentioned that the recent law only applies when the individual dies while on active duty. It would not apply to an individual, for example, in a same catastrophic situation who is transferred to a VA hospital, and later dies after having been released from active duty.

Mr. Zoeckler also mentioned another point in this regard to the Commission. He stated that the recent legislation requires that the individual that died on active duty participated in the program and be eligible. That means that he or she must already have completed the equivalent of a high school diploma. There have been individuals who died on active duty and participated in the Chapter 30 program who will not be paid a death benefit, because they did not complete the equivalent of a high school diploma.

Obviously, the current legislation is far more restrictive than what the Commission had envisioned, the Chairman pointed out. The members agreed that this issue should be reexamined.

After a brief discussion of several options such as when an individual dies after military service, or when someone becomes eligible for Chapter 31, it was decided that the Commission would reiterate its position as stated in its first report.

The Commission decided not to make any further comment regarding the role of continuing education, and insofar as standardization is concerned, the Commission expressed its pleasure with the response VA provided. The Commission noted that the task force VA will create to examine this issue is a very forward looking step for them to take. Ms. Dollarhide said that no definite timeframe had been set for completion of the work of the task force, but that VA would attempt to incorporate the results in the final report. Chairman Steiger, on behalf of the Commission, applauded VA for the effort. At this point, the Commission recessed for lunch at 12:00 and reconvened at 1:30.

The first issue addressed in the afternoon session was the reporting fees paid to educational institutions. After noting the recommendations the Commission had made on this issue, Chairman Steiger said that the Department's interim report was an inevitable response, which acknowledges the detail of the certification process and the significance of these activities, but notes that the decline of students should have made a difference, and that institutions after all do receive tuition from these students, and there is no need to increase the reporting fees based on these two facts. Ms. Steiger said that with the constraints of OMB review and the current budget situation, the Commission could have expected no other response.

Mr. Wickes remarked that he was in the minority position before and remains in the minority. He said that he still goes back to the self-certification argument, and given that concept, schools should be taken out of the loop. He believes that this should substantially reduce the other payments. The Chairman said that she would like to make sure that the Commission again includes the minority opinion. The Commission does not disagree that it might be a goal to be thinking toward, and for that reason would like to make sure that these views are once again stated.

After a brief discussion, the Commission agreed to restate its original position on reporting fees, and to encourage the scale approach. The Commission understands the constraints of budget, but nonetheless presses for some change in the reporting fee.

Ms. Rowland wanted to stress two misconceptions on VA's part in their response. One is that given the added enrollments in schools provided by VA education programs, there is a problem in that there are more VA students than the schools know what to do with. Many institutions do not want additional students. In California, there is no special admissions policy for veterans. Ms. Rowland said that schools don't need the veteran students anymore, adding, "Yes, we know they built our education systems with the earlier G.I. Bills, but we don't need them anymore." Secondly, she mentioned the fee for Chapter 31 students, and that VA was looking at the book handling fee. She said that this fee is not necessarily being paid to institutions. Most of the school bookstores are being handled by off-campus agencies, and that money does not go to the institutions. Ms. Rowland added that the blanket statement regarding the use of VA's computer system is dangerous as there are many instances where that may not be accurate.

The Commission noted under the next topic, training and associated administrative resources, that VA has requested funding for the creation of an "Adjudication Academy" designed to provide a centralized or national training program, which the Commission agreed is a positive step. The Commission wanted to stress again, moreover, the need for resources for VA to carry out all that is needed in these areas.

Although there was no disagreement between VA and the Commission on the two-year rule, standards of progress, and the 85:15 rule, some new issues within these areas were brought up as the result of the Commission's discussions with State approving agencies. Mr. Sweeney said that the major area of concern with the two-year rule centers around the branches and waiver categories. He said that the general feeling among the State approving agencies is that this whole area of application to branch sites is not warranted these days. This is because, in part, institutions don't take the same attitude as in the 1970's to structure a site just to attract veterans. The same abuses of the past do not apply today. Another issue Mr. Sweeney mentioned was whether the two-year rule should continue to be applied to programs or should they be looking at it at the institutional level.

This is consistent, Ms. Polzer said, with the responses the Commission had received from its survey. There was also a concern that the law seems to assume that a public or tax-supported institution will not offer something that is not worthwhile, since the two-year rule does not apply to those schools or those courses. Some of the survey respondents, she continued, felt very strongly that if the school and the branch or extension had been in operation for some period of time and had a history of compliance, etc., that the two-year rule prohibited that institution from offering new and innovative courses, particularly when there was a change in technology.

Mr. Sweeney emphasized that the State approving agencies as a whole are highly supportive of the two-year rule and would not advocate doing away with it. The problem areas, however, are the off-campus sites, and that the waiver categories are far too restrictive. He suggested that perhaps the two-year rule should not be applied to branches at all.

After some discussion, there was no unanimity on whether the Commission should make any recommendations regarding the two-year rule. It was decided that the issues raised, i.e., about the efficacy of the two-year rule insofar as branches and extensions are concerned, would be "flagged" as an issue needing further discussion and review. No position was taken by the Commission.

Concerning the issue of the value of home-study courses, the Commission had no further comments to make, and noted that it was beyond the resources and time available for them to make any assessment or judgment. The Commission emphasized that the very difficult issue of quality assessment was not confined to home-study courses or to any particular mode of study.

Insofar as work-study benefits are concerned, the Commission noted that VA supports the payment of such benefits at the higher of a State minimum wage or the Federal minimum wage. The problem areas are whether to include Chapter 35 and Chapter 106 trainees in the program. On this latter point, Mr. Zoeckler mentioned that part of the thinking of the Department was that Chapter 106 students are regarded as full-time employees and part-time students. It would probably be very difficult to get a reservist who is working and going to school to work for VA in this kind of program. Ms. Rowland disagreed, saying that she sees Chapter 106 students looking for part-time work. Unfortunately, at this point, there are no statistics available to support either argument.

Mr. Meadows reminded the Commission of the problem brought to the Commission's attention by the Director of the St. Louis regional office regarding their problem with being able to compete for work-study students. He mentioned the problem of parking in the area, and due to the high cost factors, students simply were just not interested in the work-study program.

After some further discussion, the Commission agreed to maintain their position on the work-study program, and to reiterate that stance in their next report. The Commission recognizes that to some degree it is a budget issue, but all agreed not to change their position, and that there should be parity between the Chapter 30 and Chapter 106 programs.

Some discussion followed regarding the minority opinion in the Secretary's Educational Assistance Advisory Committee report that was expressed by Ms. Hazel Benn. It was generally felt that Ms. Benn is correct in that whenever VA administers a rule, it is doing so in accordance with the intent of law and is not dictating education policy to the schools. The Commission was not opposed to Ms. Benn's comments, noting that her concerns were probably taken out of context as to what was intended in the original report.

Ms. Polzer noted regarding the issue of fee-basis medical care for Chapter 31 trainees that there would be a meeting with Vocational Rehabilitation and Education Service personnel in the near future, and that since the matter was apparently a fairly isolated one, it would be resolved at that time. A statement would be included in the next package sent to the Commission members on the results of that meeting.

A new issue brought to the Commission's attention was the payment restriction for those persons on active duty, i.e., payment limited to tuition and fees reimbursement or the full-time rate, whichever is lesser. It was noted that this may at times hinder Department of Defense's efforts for retention. People will leave the service in order to take advantage of their education benefits, since they are worth so little while on active duty, while at the same time full entitlement is charged.

Mr. Zoeckler noted that under the Chapter 32 program, in-service students are paid the same as veterans not on active duty. He also pointed out that one of the primary things the military does is to lay out dollarwise how much money an individual is to get. For example, under the Army College Fund, the information is laid out in dollars. In actuality, the Army has relayed to him that they have received a lot of complaints from individuals who have used their benefits but only got, for example, out of $27,000 that they had been told they would get, they were only able to use about $20,000, because they had used benefits while on active duty. If the same rate were applied, this type situation would not occur.

Ms. Rowland added that the cost of going to college entails much more than just the cost of tuition and fees. There are, she said, books, supplies, additional lab fees, child care, transportation costs, clothing, and lab equipment. This has always bothered her previously under Chapter 34 that people on active duty receive less money than those who are veterans. She urged the Commission to support action to go to the same rate of payment for both groups.

The history of different rates of payment for active duty personnel is somewhat clouded, and Mr. Meadows noted that it goes "way back." He related how in the early days of the G.I. Bill, payments were precluded for those who held full-time civilian jobs. It was, he said, the concept that if someone was otherwise employed full-time, then he or she could not be pursuing school full-time. Mr. Zoeckler added to the comments Mr. Meadows had made by relating it was his belief the first time active duty people were eligible for education benefits from a VA program was under the Chapter 34 program, and that at that time the thinking behind imposing a payment restriction limited to tuition and fees was that the military provides room, board, etc. Mr. Jackson mentioned that this was the same argument that had been used in restricting payment to those who were incarcerated. The concept, he noted, was that persons incarcerated do not pay their own subsistence.

Some discussion followed, especially regarding the inequity of the entitlement charge for those on active duty. Persons in the military are charged entitlement based upon the training time rate being pursued, not by the dollar amounts of money they receive. Mr. Wickes noted that the injustice could be cured in one of two ways, either to correct the entitlement charge or to allow servicepersons to use their readjustment benefits as do persons not on active duty. He tended to support the former method, i.e., adjusting the entitlement injustice wanting to maintain some notion that this has a relationship as a readjustment benefit. He said that he has difficulty accepting the fact that someone who is full-time military can also go to school full-time.

Ms. Polzer added her thoughts that being in the military is the same as having a full-time civilian job. Department of Labor statistics count, she said, those people in the military as being in the labor force. Schools go to great lengths to devise courses that people who have full-time jobs can take in the evenings and on the weekends. Ms. Rowland also pointed out the anecdotal evidence indicating the payment differentiation may hinder retention, which is not what the Commission wants to urge or support. The Commission, she said, wants to encourage people to stay in the military and to become more educated. This is not accomplished by giving them minimal amounts. "There are other costs associated with education," she emphasized. Mr. Ostar also mentioned that there is an advantage to the public in this regard. These individuals are doing college work while on active duty, which shortens the amount of time needed to go to school after they leave the service.

At the same time, the tuition assistance program is drying up some, according to Ms. Dollarhide. At one time, tuition assistance paid 95 percent, now that is down to 75 percent. Also, the military now has a policy, Mr. Zoeckler added, whereby if an individual is eligible for VA assistance, the military will not pay tuition assistance. There is a "rub" here in that if an individual is going to a high cost institution, there is a reluctancy to use VA benefits because of the low reimbursement rate while on active duty, but tuition assistance will not be payable because the individual is eligible for VA assistance.

Following further discussion, it was decided to point out the disparities in the program and the disincentives the lower rate for active duty personnel has on both recruitment and retention in the military services. This is a problem the Commission would bring to the attention of the Committees as a new recommendation and supports consistency and standardization in the programs, showing a unanimous preference for resolving this particular problem in favor of raising the payment rate for active duty persons to that which is authorized all other persons.

Another suggestion was brought to the attention of the Commission by Mr. Jackson regarding the opportunities to enroll in the Chapter 30 program.. He mentioned that the opportunity should be given to those persons who may have initially declined participation in Chapter 30 to elect to join the program upon a subsequent reenlistment. This could, as a practical matter, be a new reenlistment or retention incentive. After some discussion, the Commission decided that this was a good suggestion and that it would be included as a recommendation to the Committees for further consideration. It was suggested that the second opportunity to enroll in the Chapter 30 program be made at the discretion or option of the individual branches of service based on their particular needs. Providing such an option would also be consistent with the Chapter 106 program which provides eligibility to those who enlist and/or reenlist for service in the Selected Reserves.

The next new issue brought up for discussion involved the measurement provisions for graduate level study. It was noted that the law is silent regarding this type of study. After some discussion, the Commission decided to take no action on this topic at this time, as there does not seem to be a significant problem with the way it is being done now.

The Commission also expressed its concern about some of the recordkeeping aspects regarding the 85:15 issue. It was brought out by Ms. Polzer that the law provides that there can not be more than 85 percent veterans enrolled in a particular course; however, but if a school has less than 35 percent veterans enrolled, VA tells the school that 85:15 does not apply. Nevertheless, the school must still maintain records to show that there are no more than 85 percent veterans in any one particular course. This problem may be most evident in, for example, small graduate level classes. Mr. Ostar suggested that it might be more equitable if the 85:15 ratio were to apply only to off-campus courses. Following some discussion on these points and the inclusion of Chapter 106 in the 85:15 provisions, it was decided to keep the 85:15 requirements, to mold in the Chapter 106 trainees, and to indicate that if an institution has less than 35 percent veterans enrolled, then the Committees and VA might want to look at whether or not the school should be required to monitor the 85:15 ratio in each individual class. The Commission, insofar as this latter part is concerned, took no position, but only raised the issue for possible study.

Ms. Dollarhide brought to the Commission's attention the negative effects on VA processing that the Computer Matching and Privacy Protection Act of 1988, Public Law 100-503, will have. Mr. Susling went on to explain that this Act provides that agencies involved in computer matching activities must have written agreements as to the use of the data that is matched and requires independent verification of data received from a computer match prior to any adverse action on an individual. The Act will have a significant impact on the education benefit programs under Chapters 30, 32, and 106, since these programs rely on computer data received from the Department of Defense in order to determine eligibility to payment and rate of payment. Currently, the Chapters 30 and 106 programs provide for automated benefit suspense action based on data received from computer matching. Substantial programming and procedural changes will be required to meet the requirements of this new Act, current agreements with the Department of Defense for providing data for the Chapter 32 program will have to be revised, and written agreements will have to be developed for the Chapters 30 and 106 programs. All in all, Ms. Dollarhide, said, the requirements of this Act can be expected to impact negatively on timeliness of processing, productivity, and cost of administering the programs.

The Commission was obviously upset about the impact of this Computer Matching Act on VA programs. After some discussion, the position was taken that Federal matchups, i.e., computer matchups between one Federal agency and another, should be excluded. It was unanimously agreed that this problem with its serious consequences should be brought to the attention of the Committees.

The final issue discussed by the Commission was that of accreditation as a requirement for approval of G.I. Bill courses. In explaining this issue, Mr. Ostar said that he felt veterans should be entitled to the same protections as others who receive student financial assistance from the Federal Government. He indicated that under all other Federal student financial assistance programs, institutions that are eligible to provide those benefits must meet a minimum threshold of accreditation by an agency or body recognized by the Secretary of Education. Mr. Ostar emphasized that the Secretary of Education does not recognize individual institutions but recognizes accrediting bodies. He said this provides good protections for all other financial assistance students and should be available to veterans as well.

Mr. Ostar noted secondly that for the tuition assistance program of the Department of Defense, under new regulations institutions that provide education benefits under the tuition assistance program must be accredited by an agency recognized by the Secretary of Education. The new program being developed for the Army Recruiting Command, CONAP, Concurrent Admissions Program, which will facilitate and administer for those who sign up for G.I. Bill benefits to be admitted to a college or university as they enter the service so that the college or university will be able to provide counseling to that serviceperson while they are on active duty, for taking courses while on active duty, and then when they leave active service, they will already have been matriculating in college degree courses. This program is limited to institutions that are accredited. Mr. Ostar also pointed out to the Commission, that in earlier discussions that day, the Commission had indicated its concern for those students taking courses while still on active duty. He said that the policy of the Department of Defense is, insofar as the colleges or universities offering courses on or near bases is concerned, they only invite or contract with institutions that are accredited. To be consistent, he suggested that veterans taking courses at postsecondary institutions should also be given the protection that the schools are accredited. The Council on Postsecondary Education has made a recommendation, Mr. Ostar pointed out, to this Commission that higher education institutions should meet the requirements for accreditation. Also, the American Council on Education has made a similar recommendation.

In response to a point made by Ms. Dollarhide regarding past problems insofar as accreditation is concerned with respect to church affiliated schools, Dr. Petersen noted that most bible colleges are accredited by the American Association of Bible Colleges. Mr. Fowler also noted that DANTES requires accreditation for its programs.

Dr. Petersen said that the concern is what is good for the veteran. For any course work that could be potentially applied to a degree or for which the veteran-student might one day want a degree, that there should be a threshold requirement of accreditation. Dr. Petersen said he does not support the notion that all institutions have to meet the standards of accreditation for application for veterans, because that would cut out some very legitimate training programs such as apprentice programs and on-the-job training programs which legitimately should be provided as opportunities to veterans, and for which there are competent agencies to check. However, to the extent of postsecondary educational institutions, no matter what the student's interest is at the time he or she signs up, at some point they're going to want something for the degree or they're going to want to apply the credit toward a degree. This will not be available, he continued, unless they are from an accredited institution.

Dr. Petersen mentioned the "weird" California State licensing law, which is presently under review, that has permitted more State-licensed organizations giving PhD's in California than there are legitimate accredited universities giving PhD's in California. There are, unfortunately, State approving agencies that administer bad laws, and Dr. Petersen indicated he would hate to depend on State approval to protect the veteran for that reason. If there is concern for the welfare of the veteran, if there is concern that the veteran get something worthwhile with his G.I. Bill benefits, then there should be the understanding that institutions that offer degrees or credit that might be applied toward a collegiate degree should be accredited.

Mr. Sweeney, taking some exception, said that there are a number of "unaccredited" institutions that do a very fine job. One needs, first of all, he said, to look at what accreditation does. It is not a quality control device but perhaps a quality enhancement process through peer review. Accreditation needs to be, and always has been, an integral part of the administration of the various G.I. Bills but should not be the sole determining process.

In the absence of a consensus on the issue of accreditation, Mr. Ostar felt that the Commission should state why there is a double standard, i.e., why veterans should not be afforded the same protections as other students. Mr. Zoeckler pointed out that there has always been provisions in the law to provide benefits for training in both accredited and nonaccredited programs. This has probably come about from the 1940's when there was a lack of some educational programs at accredited schools such as in the farming areas or rural areas. Mr. Meadows agreed to this assessment, noting that in the early years of the G.I. Bills, there were not very many accrediting associations. Situations arose, he said, where one state-supported school could be approved for veterans' training, but another could not until the school had been in operation for five years and became accredited.

Things have changed, however, according to Dr. Petersen, who noted that the unavailability of educational opportunities was true even up until the 1960's, and the availability of recognized accrediting service has also increased. He reiterated, however, his position that accreditation should not be used as the threshold for all approved programs. His concern is for the student with a degree objective, and the veterans' programs should not be a part of any deception of a student veteran who has such an objective. There is no easy solution to this, but it is easily supported by the triad notion consistent with the way everything else in higher education is being looked at.

Mr. Meadows reiterated his position that despite accreditation as an issue, the approval process must still look at the program being pursued and not just at the institution. He noted that this has been the concerns over the years. Many times a person may think he is in a degree program but in actuality is not, because he is enrolled in a school that does not have that degree program accredited.

After some further discussion, no consensus or agreement could be reached on this issue. There are concerns in this area, as Mr. Meadows pointed out, and the Commission expressed its wish that the dilemma be acknowledged but has no recommendation to make.

There being no further business at hand for this session, the Commission adjourned at 3:35 p.m.

Recorded by: A. Wayne Taylor

Certified correct: Janet D Steiger

JANET D. STEIGER
Chairman

- APPENDIX B -

COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

SURVEY OVERVIEW

In January 1989, the Commission undertook efforts to gather additional information to expand its understanding of a number of issues. Specifically, in preparation for its final report, the Commission sought the input of those in the field on their experiences with non-accredited institutions, the so-called "85-15 ratio" and the two-year rule, and on graduate-level training.

Surveys were distributed to the Education Liaison Representatives (ELR's) in each of the Department of Veterans Affairs' 57 Regional Offices and to State approving agencies (SAA's) with responsibility for approving programs of education for purposes of the GI Bill. A total of 70 responses (representing 46 States) were received -- 31 from State approving agencies and 39 from ELR's.

As was the case with respect to the Commission's first survey in 1988, it was understood that this effort was not intended to yield a scientifically precise statistical analysis. Rather, it was hoped that it would provide the Commission with a sense and scope of the issues.

Statistical Overview

Overall, the number of accredited institutions covered by the survey was 10,801; the number of non-accredited institutions was 2,462. This represents an average percentage of non-accredited institutions of 18.56%

The number of non-accredited institutions in a State ranged from none to a high of 244. The percentage of non-accredited institutions ranged from zero to a high of 59.02%.

Types of Non-Accredited Institutions

Respondents were asked to identify the types or categories of non-accredited institutions. Almost 70 percent (46 of 67) included among the types Bible colleges or schools of religion. Other types of non-accredited institutions or programs of education frequently identified were as follows:

Trade/technical or vocational skill institutions	(45 responses)
Beauty, barber, or cosmetology schools	(29 responses)
Business or secretarial schools	(26 responses)
Institutions of higher learning (including junior colleges)	(24 responses)
Bar or CPA review schools	(12 responses)
Health-care training	(12 responses)
Public safety	(10 responses)

Law schools	(10 responses)
High school or GED	(6 responses)
Real estate	(6 responses)
Travel	(6 responses)
Farm Cooperative	(3 responses)
Wilderness trades	(3 responses)

Examples less frequently cited were polygraph operation, steam engineering, paralegal, massage therapy, dog grooming, art, taxidermy, fashion, interior design, gemology and jewelry, cuisine, plumbing, auctioneering, court reporting, computer, denturist, holistic health, truck driving, horseshoeing, K-9, other professional trades and special schools that only accept agency referrals.

Reasons for Non-Accreditation

Reasons as to why institutions were non-accredited were varied but the two types of responses most frequently given were (1) the high cost of accreditation and, (2) in the case of schools of religion, the doctrinal control and outside influence that would be associated with accreditation. The high cost factor was often related to the small size of the institutions, the few students enrolled, the time involved, or the limited advantages obtained. In one case, it was noted that the institution choose not to go to the expense of seeking accreditation as is proud of the educational programs offered at the school and, coupled with State licensing and professional board oversight, accreditation was unnecessary.

A number of respondents noted that the institutions involved were not interested in Federal funds or did not have a need to recruit students. Others noted that there was no applicable accrediting body (for example, in the case of programs of steam engineering). In a number of cases, accreditation of schools of cosmetology is not recognized by the State approving agency.

Problems with Non-Accredited Institutions

When asked whether proportionately more problems with non-accredited institutions had been encountered than with accredited institutions, 59 respondents (28 SAA's and 31 ELR's) said no. Nine respondents (2 SAA's and 7 ELR's) said yes. In response to the question as to whether there were specific types of problems associated with non-accredited institutions, 46 respondents (22 SAA's and 24 ELR's) said no; 22 respondents (8 SAA's and 14 ELR's) said yes.

The one specific type of problem associated with non-accredited institutions most frequently mentioned was the enforcement of the pro-rata refund policy. Another problem cited was general recordkeeping requirements, with one respondent pointing out that accrediting process does serve to acquaint the institution with the need for documentation. Another respondent stated that most non-accredited institutions are not as "bureaucratically oriented" as the VA would like them to be and recordkeeping tends to be lax.

One respondent noted problems with quality of staff, credit transfer, inadequate resources, poor facilities, and problems with graduates obtaining employment because employers look unfavorably on the educational experience. Another respondent pointed out that private non-accredited schools require 25 to 30 hours of training for full-time enrollment, and that most students are part time and rarely receive costs of school's inflated tuition charges; most veterans don't realize they are attending a non-accredited school until it is too late.

Other respondents noted that the problems encountered with accredited institutions are equal to or greater than those encountered with non-accredited institutions. Specifically, one respondent stated that at the height of the chapter 34 program, more problems had been encountered at non-accredited institutions but that now many of those schools were accredited. Another stated that larger problems existed at accredited schools and pointed out that more people were affected by them.

Criteria for Approval

A series of questions were presented regarding the criteria for approval of non-accredited institutions set forth in section 1776 of title 38, United States Code.

In response to whether or not some or all of these criteria should apply to the approval of accredited schools, 34 respondents (11 SAA's and 23 ELR's) said no; 35 respondents (19 SAA's and 16 ELR's said yes. One respondent replied that it should be left to the discretion of the State approving agencies.

A substantial number of responses suggested that all of the section 1776 criteria for non-accredited courses should apply to accredited courses. Similarly, others felt that the same criteria should apply equally to both. One ELR noted that "astute SAA's do apply as needed in individual cases sections of 1776" and that this latitude should be reserved to the SAA's. Likewise, a number of responses suggested that the approval criteria already are or should be applied as needed based on a case-by-case determination.

Other specific criteria cited as possible additions to the criteria for approval of accredited institutions were pro-rata refund policies and financial stability.

With respect to whether the criteria for approval of non- accredited institutions should be revised (that is, are there criteria that should be eliminated or added) 51 respondents (23 SAA's and 28 ELR's) said no; 18 respondents (7 SAA's and 11 ELR's) said yes.

Specifically, a number of respondents again focused on the need for approval criteria for non-accredited institutions to be the same as those for accredited institutions. Others offered specific suggestions for changes, such as addition of criteria relating to the qualifications of adjunct faculty and methods to assess student learning outcomes, elimination of measurement distinctions, more flexibility in pro-rata refund policies, and establishment of a minimum number of contact hours.

Three respondents stated that they believed that non-accredited institutions should not be approved for GI Bill purposes, with one noting that there was no way to ensure a quality program is being provided at non-accredited schools. Another noted that many schools are deceptive by omission and most students do not know the difference between accredited and non-accredited and find out only when credits will not transfer. Conversely, another respondent stated that the first criterion for approval for GI Bill purposes should not be accreditation and that non-accredited institutions should not be prohibited from participation. Another felt that vigorous application of current criteria provides adequate protection.

Another respondent asked, "since the approval criteria has little to do with the quality of education, why have it?" Four respondents focused on the need for devising some means of measuring the success of training in terms of completion and subsequent job placement. One response suggested two separate approval criteria be established: one for institutions of demonstrated ability and another for problem institutions. Finally, one respondent suggested that review and revision of the criteria is long overdue.

Respondents were asked to rate on a scale of 1 to 5 (with 5 being "very much") the extent to which they believed that the section 1776 criteria for approval of non-accredited institutions contribute to ensuring the quality of education. The overall average rating of all respondents was 3.52. When broken down between the SAA's and the ELR's, the SAA's average rating was only slightly higher -- 3.83 versus 3.28.

Regional versus National Accreditation

With respect to differences between institutions that were regionally accredited versus those that were nationally accredited, 43 respondents (16 SAA's and 27 ELR's) said that they had seen no distinctions. Twenty-five respondents (14 SAA's and 11 ELR's) replied that they had seen distinctions.

Specific comments on the distinctions tended to focus on the fact that regional accrediting associations were largely academic in nature and national associations were oriented more toward trade and technical training. One respondent noted that normally schools that are accredited regionally have better curricula and instructors; another stated that national accrediting associations tend to be more thorough and professional than some of the regional associations. One respondent commented on the differences in costs of accreditation and noted that schools choose the cheapest or the most lax.

Other specific comments included:

> "Regional agencies generally accredit school while national accredits programs. VA is interested in programs."

> "Regional associations have better oversight and are concerned with quality. The national associations are concerned with quantity of institutions and money."

> "Distinctions are like night and day. Regionals tend to hold schools more accountable. National is a term I normally associate with abuse and distrust."

> "Neither are as rigorously inspected as in State approval process. Accreditation is not truly an objective process simply because peers are reluctant to be very severe or critical of peers. Third party is needed in the process."

Overall, as to differences between accredited agencies, the majority of respondents stated that they had seen no differences among various agencies or that the differences were only slight. The one difference most often cited was refund policies which one respondent characterized as differing greatly.

Other specific comments included the following:

> "Agencies which deal with specific vocations or professions appear to look more closely at quality of education rather than potential for quality of education."

> "As a rule, regionally accredited schools are more acceptable for credentials than some nationally accredited schools in the business community. This may reflect on accrediting agencies themselves."

> "Only real value of accrediting agencies is when they withdraw accreditation. Then you know the institution really stinks!"

> "Qualitative differences. I lack confidence in national beauty school accrediting agencies."

> "Some agencies seem to have more policing authority than others."

> "Some have higher costs, lower refunds. Too often, accrediting committee is local school owners overseeing school where owners will repay the favor when reversed. Would rather have national over regional."

"Some simply collect fee and mail certificate. Others make periodic on-site inspections and closely check for discrepancies in standards."

State Approved versus Accredited Institutions

Twenty-three responses (representing 17 States) were received that indicated that there were institutions approved for GI Bill purposes were State approved, but neither regionally nor nationally accredited. In each case, the respondent indicated that there had been no problems or only minor problems with these schools. A number of respondents reported that State licensure requirements were quite stringent and that close State supervision was carried out.

Measurement Distinctions

For the purposes of determining training time for GI Bill payments, courses offered at non-accredited institutions are measured differently than courses offered at accredited institutions. When asked whether the measurement distinctions made are valid, 42 respondents (16 SAA's and 26 ELR's) said they were not; 25 respondents (14 SAA's and 11 ELR's) said that they were.

Comments from those who replied that the measurement distinctions were valid included the following:

> "Additional oversight and criteria for accreditation lends more creditability to the quality of the instruction program."
>
> "Based on type of training offered, measurement of curricula offered by accredited and non-accredited institutions appears appropriate."
>
> "Distinctions usually don't make a difference to full-time student. Both require more than minimum hours. See no need to change."
>
> "Distinctions appear to have an impact on and ensure adequate instructional time."
>
> "Overall, the lower attendance requirements are justified for accredited schools and programs with some exceptions."

Comments from those who reolied that the measurement distinctions were not valid most frequently were simply that both accredited and non-accredited programs should be measured the same way. Additional remarks on this issue included the following:

> "After 15 years, I still can't understand why or how two auto mechanic courses can have substantive differences in measurement based solely on accreditation."

> "Bad programs are bad programs. The more time in class for non-accredited schools does not improve quality. Also, accreditation does not really mean much in terms of how many hours of attendance should be full time."

> "I've always felt that the differences reflected the lobbying activities of the agencies more than anything else. This could be viewed as a national policy encouraging voluntary associations as well."

> "[Measurement distinctions] appear to discriminate against veteran students and not the school. Veterans should receive equal benefits for equal training time invested in program of study."

> "Distinctions between accredited and non-accredited institutions should be determined by the SAA. Not proper to arbitrarily require more attendance at a non-accredited that may be the superior school. Not unreasonable to allow SAA to determine."

> "Distinctions primarily exist because there is an assumption that one has less quality than the other. This is simply not true as a generality."

> "We tend to treat veteran as second class citizen for attending non-accredited school. If school can be approved for VA benefits, why not pay the same?"

"85-15 Ratio" and the "Two-Year Rule"

Nineteen respondents (8 SAA's and 11 ELR's) indicated that they had had problems with either the the "two-year rule" or the "85-15 ratio"; 51 respondents (23 SAA's and 28 ELR's) said that they had not.

Of the specific problems cited by the respondents, the majority were problems with the "two-year rule". In most cases, respondents noted that because of the low number of veteran enrollments, the "85-15 ratio" was not a problem. One respondent noted that problems with the ratio ended when the authority for flight training was repealed. Overall, respondents' comments included the following:

> "Schools are constantly creating programs to keep up with technology. Private colleges offering certificate programs must wait two years. Two-year rule should be modified to permit approval of programs offered at established institutions with satisfactory compliance histories."

> "Many schools go to any length to circumvent the two-year rule. It is seen as a disadvantage to schools -- a bureaucratic barrier -- rather than as a basic protection for the veteran."

> "Everyone believes there exists a waiver of the two-year rule just for the asking. The law is difficult to explain and needs rewriting."

> "Every time a proprietary school adds a new unrelated program or starts a branch, they become enraged when we cannot accept approval."
>
> "The 'similar in nature' (and unwritten 50% criterion) is unreasonable."
>
> "Two-year rule is so complex that we have had to seek an advisory opinion from central office in most instances to determine if it applied to the school in question."

With respect to specific improvements and/or changes that might be made in these two requirements, respondents focused principally on repealing the "85-15 ratio" and revising the "two-year rule".

With respect to specific suggestions for modifications in these two requirements, many respondents proposed repealing the 85-15 ratio, with others noting that it is nearly or always met due to the limited number of veterans enrolled in training. Two respondents suggested that since the ratio applies only to GI Bill programs, and not other Federal programs, it should be changed to a 50-50 ratio. Similarly, others proposed that the 85-15 ratio either be eliminated or strengthened by amending it to apply to the entire school population rather than individual programs or that an exemption be incorporated for sparsely populated States. A few respondents noted that the ratio requirement helps insure continued quality or acts as a deterrent.

In the case of the two-year rule, far fewer respondents suggested that it be eliminated and many responded that it serves a useful purpose and should be retained and, in a few cases, strengthened. Strict and simpler enforcement efforts were urged, as well as clearer guidance on the myriad of waivers available. As one respondent stated, "simplify the language or do away with it".

Others suggested modifications in the two-year rule requirements such as reducing the required period of operation to one year contingent upon a thorough review by the State approving agency application to institutions rather than programs, additional waivers in the case of interstate relocation of schools, and increased flexibility. One respondent suggested that the rule be modified to allow a new course at a school with an established history of compliance to be conditionally approved without regard to the two-year requirement but at the same time limit the percentage enrollment of veterans to perhaps 20 percent of the total enrollment.

Graduate-Level Training

Respondents were asked if they had experienced any problems in the measurement or approval of courses offered at the post-baccalaureate degree level. Forty-nine respondents (24 SAA's and 25 ELR's) said that they had experienced no problems; 18 respondents (5 SAA's and 13 ELR's) said that they had.

Examples of problems cited by the respondents included the following:

> "I accept current standards relative to school's graduate programs being certified for training time determined by school officials. However, when a school's undergraduate programs do not meet standard class session requirements and must be paid at the independent study rate, school's graduate programs should should not have training time determined by the school. An alternative rate should be established by the VA."
>
> "Some problems in determining what is 1/2 and 3/4 time training for graduate programs. Post-graduate professional courses are a problem because in many cases they are just unit subjects rather than programs. Standards of progress are difficult to apply."
>
> "We have a couple of schools that offer graduate work at an Air Force Base whose VA students don't qualify for regular payment because of weekly sessions. However, total number of hours is equal."
>
> "Schools are offering more non-traditional programs to meet needs of students and community. Numerous programs are offered and if courses do not apply to specific degree program, they are measured on clock hour basis. Generates much correspondence."
>
> "There is some confusion over independent study at the graduate level. If the graduate student's schools can determine training time for class or thesis, why not for independent study?"
>
> "Some [problems with] non-traditional (accelerated learning) in which an ever increasing number of colleges and universities will award degrees in less time than normally given in traditional setting without increase in class contact time."
>
> "Graduate certificate programs are not educational objectives, rather they are professional or vocational, causing confusion at times if payment should be authorized 'as certified by school'."
>
> "VA determines that post-baccalaureate program not leading to a degree (certificate program) must be measured in clock hours, thereby forcing a large IHL into recordkeeping requirements inconsonant with offering."

APPENDIX C

**ACCREDITING
COMMISSION
or COMMUNITY and
JUNIOR COLLEGES**

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Administrative Assistant
SUE LUNDQUIST
Aptos Office

May 25, 1989

Babette V. Polzer, Executive Director
Commission to Assess Veteran's Education Policy
5501 Beech Ridge Drive
Fairfax, VA 22030-4616

Dear Babette:

I want to make certain that my insistent advocacy for accreditation is not misunderstood. As I have stated previously, I generally support reliance on State approving agencies to interpret VA criteria in deciding which programs and institutions may train veterans receiving benefits. There is a wide range of useful training programs that will not be found in colleges and universities, and most of them will never be candidates for accreditation. Accreditation, however, is a necessary safeguard for those student veterans who have a degree objective, and it should therefore be taken into consideration by the VA and SAAs.

We should be profoundly suspicious of claims that there are many quality degree-granting institutions that are either excluded from accreditation or that choose to not be accredited. The American Association of Bible Colleges and the six regional accrediting associations accredit an enormous range of religious institutions, including tiny church-related schools that exist to preserve minor doctrinal peculiarities. NATTS and AICS accredit hundreds of trade schools, including a number that grant degrees. The justification cited for not relying on accreditation for VA approval in the fifties and early sixties simply does not exist today.

Some concerns that simply should not be overlooked include the following:

1. Work taken at unaccredited institutions will probably never be accepted by universities for course credit leading to a degree. The same is true of many professional licensing agencies.

2. VA benefits recipients should have the same level of consumer protection as do other students who receive federal or state financial aid.

3. Experience has shown that the typical student is very likely to change the educational objective stated at the beginning of collegiate study.

My concern has to do with the student veteran who states a degree objective. That student and the bill-paying public are being cheated if a meaningless degree is pursued. I suggest that VA funds should not support pursuit of degrees at unaccredited institutions, many of which would fall under a reasonable persons' definition of a diploma mill. There can be a review process and criteria established to examine special cases or appeals.

At the very least the beginning student veteran should be counseled as to the probable value and applicability of the program about to be undertaken. This in no way undermines the authority of the SAAs to administer VA approvals. Our concern should be the public interest and protection of the student veteran.

If I can be helpful in any way please give me a call.

Sincerely,

John C. Petersen

sul

cc: Thurston Manning, COPA

- APPENDIX D -

COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

Biographies of Commission Members

CHAIRMAN
Mrs. JANET D. STEIGER
Chairman, Postal Rate Commission

First appointed to the Postal Rate Commission in October 1980, Mrs. Steiger was designated by President Reagan to head the Postal Rate Commission in March 1981. As Chairman, she has presided over the two largest rate cases in US history. In 1984, the Federally Employed Women of Washington, DC, awarded her the fifth "Outstanding Woman in Government" award. Chairman Steiger has been an author, teacher, business woman, and consultant in the fields of education, juvenile justice, health, and crisis management. She was a research associate of the National Academy of Public Administration and coauthored the 1977 Congressionally-mandated study on GI Bill Approvals for the VA. Mrs. Steiger is affiliated with the Executive Women in Government, the Administrative Conference of the United States, and other organizations. Mrs. Steiger is a native of Oshkosh, Wisconsin, and an honors graduate of Lawrence University, where she is a member of the Board of Trustees. She is the widow of the late Congressman William A. Steiger of Wisconsin.

COMMISSION MEMBERS

Mr. WILLIAM A. FOWLER
Executive Director, National Home Study Council (NHSC)

Mr. Fowler earned degrees from Washington and Jefferson College and the University of Pittsburgh. Prior to joining the NHSC in 1961, he was Chief of the Audio/Visual Aids Division, Quartermaster Training Command, serving as a Captain in the US Army. Mr. Fowler was an instructor at the Richmond Professional Institute, teaching evening classes. Concurrently, he was President and General Manager of the Dr. Pepper Bottling Company of Petersburg, Inc. As Executive Secretary of the Accrediting Commission of the National Home Study Council and Executive Secretary of the Accrediting Commission of the National Home Study Council, Mr. Fowler is responsible for all association activities for school relations and for administering the accrediting program.

Mr. CHARLES R. JACKSON
Executive Vice President
Non Commissioned Officers Association (NCOA)

Mr. Jackson is a graduate of Palomar College. He served in the US Navy for nearly twenty-five years, retiring in 1979 with the rank of Master Chief Petty Officer. Mr. Jackson served numerous tours of duty aboard naval ships and aircraft squadrons and served in Vietnam aboard the USS Franklin D. Roosevelt. He completed his Naval career as Chief Recruiter for the South Florida and Caribbean Navy Recruiting District and as Force Master Chief for the Navy Recruiting Command. Since his retirement, Mr. Jackson established the Veterans Service Program for NCOA and was its first accredited National Veterans Service Officer. He was elected to the NCOA Board of Directors in 1980 and was elected as its chairman in 1984. In 1988, he was elected as Executive Vice President of the Board. He formerly served on the Secretary's Advisory Committee on Women Veterans.

Mr. OLIVER E. MEADOWS
Chairman, Secretary's Advisory Committee on Education

Mr. Meadows served on the staff of the House Committee on Veterans' Affairs and was the Staff Director of the Committee from 1955 to 1976. During that period, he contributed immeasurably to the writing and passage of every piece of major veterans' legislation. Mr. Meadows is a graduate of Texas A&M University and served as an officer in Europe during World War II. From 1947 to 1951, he served as the Deputy Director of the Texas State Approval Agency, which administers veterans' education and training programs. He has served as the Chairman of the Secretary's Advisory Committee on Education since 1977 and is fully conversant with current programs administered by the Department of Veterans Affairs. He also serves as the Chairman of the Secretary's Advisory Committee on Environmental Hazards. Mr. Meadows served as National Commander of the Disabled American Veterans (DAV) in 1977.

Mr. ALLAN W. OSTAR
President, American Association of State Colleges and Universities

As a veteran who was awarded the Bronze Star for his valor as an infantryman in Europe during World War I . Mr. Ostar attended Penn State University on the GI Bill. There he helped organize the National Student Association and then became one of its first national officers. Mr. Ostar completed his undergraduate degree and part of his graduate work in psychology at Penn State and completed most of his work toward a doctorate in mass communications at the University of Wisconsin. At the University of Wisconsin, Mr. Ostar was a faculty member, assistant to the Dean of the University Extension Division, and Director of the Office of Communication Services. In 1965, he became the first full-time head of the AASCU, a position in which much of the emphasis was directed toward the transition of State colleges and universities from primarily teacher education institutions to the multi-purpose comprehensive regional institutions which they have become.

Dr. JOHN C. PETERSEN
Executive Director, Accrediting Commission for Community
and Junior Colleges
Western Association of Schools and Colleges

In 1969, Dr. Petersen earned his Doctorate degree from the University of California, Berkeley. He had earlier earned an M.S. degree from the University of New Mexico, and he received his undergraduate degree from the University of California, Berkeley. Dr. Petersen was a high school and then college instructor of biology for over 10 years. He became a college administrator while at Cabrillo College. He was President of Skyline College from 1977 until 1985, when he assumed his duties as Executive Director of the Accrediting Commission of the Western Association of Schools and Colleges.

Ms. BERTIE ROWLAND
Director, Office of Veterans' Affairs
California State University, Chico

Ms. Rowland has been the Director of California State University, Chico's Office of Veterans' Affairs since 1978. She earned her B.S. degree in agriculture from Chico State in 1984 and is now working on her masters in public administration. Ms. Rowland is a veteran of the US Air Force. From 1980 to 1982, she was a Board Member of the Veterans Programs Administrators of California and served as Fiscal Officer and President. In 1983, she became a Board Member of National Association of Veteran Program Administrators, and in 1985 she was elected its President. She was re-elected to this position for two consecutive terms. Ms. Rowland received the Department of Education Secretary's Regional Representative's Award for Outstanding Performance in Veterans Programs in 1982 and has been honored by other organizations on numerous occasions for her service.

Dr. NED J. SIFFERLEN
Vice President for Instruction
Sinclair Community College

In 1974, Dr. Sifferlen earned his Ed.D. from the University of Cincinnati. He earned his M.S. degree in Business Education at the University of Dayton where he had also received his B.S. degree in Business Education. He has been Vice President for Instruction since 1981 and was Vice President for Administration and Dean of Business Technologies prior to assuming his present position. Prior to that time, Dr. Sifferlen was an Associate Professor of Business also at Sinclair Community College and an Instructor of Business at Miami Jacobs Junior College. Dr. Sifferlen serves as a consultant on education programs in the military and in corporations to determine applicability to college curriculum (to the American Council on Education).

Mr. C. DONALD SWEENEY
Director, Division of Military and Veterans Education
Maine Department of Educational and Cultural Services

Mr. Sweeney has been the Director of Veterans Education for the Maine Department of Educational and Cultural Services since 1978. He is responsible for directing a program for the approval and supervision of education and training programs utilized by military personnel, veterans and dependents who qualify for GI Bill benefits. During his tenure with the Maine Department of Education, Mr. Sweeney also has been responsible for the management of other programs and activities, the most significant of which was assisting with the state level administration of Maine's postsecondary vocational technical institute system. Mr. Sweeney was an instructor and a veterans affairs counselor at Southern Maine Vocational Technical Institute prior to joining the Department. Mr. Sweeney earned a B.S. Degree in Secondary Education and an M.S. degree in Educational Administration from the University of Southern Maine. He served in the US Army in both Europe and Vietnam. Mr. Sweeney has been active in national and state affairs in the area of military and veterans education. From 1984 through 1987, Mr. Sweeney served as President of the National Association of State Approving Agencies, an organization that was in the forefront of the movement for the creation and permanency of the Montgomery GI Bill. In addition, Mr. Sweeney has been the primary mover behind Maine's in-state collaborative efforts in the area of military education.

Mr. JOHN T. WICKES, JR.
Attorney-at-Law, Scopelitis, Garvin and Wickes

Mr. Wickes received his B.A. degree at Indiana University where he also earned his J.D. degree while training under the GI Bill. He worked on the staff of the Senate Veterans' Affairs Committee from 1975 to 1977. During that period, Mr. Wickes worked extensively on a number of major legislative initiatives, including Public Laws 94-502 and 95-202. After service with the Senate Committee on Labor and Human Resources from 1977 to 1979, Mr. Wickes returned to Indiana to a successful law practice and, in 1988, was a candidate for US Senate from the State of Indiana. Mr. Wickes served in Vietnam and is a disabled veteran.

STATEMENT OF AMERICAN VETERANS COMMITTEE BEFORE THE SENATE VETERANS AFFAIRS COMMITTEE IN SUPPORT OF S.564, TO PROVIDE FOR AN ASSISTANT SECRETARY OF VETERANS AFFAIRS TO PROMOTE ACCESS OF MINORITY GROUPS, INCLUDING WOMEN, TO SERVICES AND BENEFITS FURNISHED BY DEPT. OF VETERANS AFFAIRS

June 9, 1989

Mr.Chairman and Members of the Committee:

Thank you for the opportunity to present the views of the American Veterans Committee on S. 564, a bill which would provide for an 'Assistant Secretary of Veterans Affairs' to monitor and promote the access of members of minority groups, including women, to veterans benefits and services provided by the new Department of Veterans Affairs.

My name is June A. Willenz; I am the Executive Director of the American Veterans Committee, which historically has been concerned about the rights of minorities and women. AVC has actively advocated for equality of treatment and access for all veterans for the benefits, services and entitlements of the VA, as well as those veterans programs administered by other government agencies, to which they were due. AVC has consistently called attention to inequities and discriminatory practices which denied minority veterans and women veterans their benefits. Since its formation AVC attorneys have represented minority veterans with their benefits claims with the VA when they were having difficulty in getting assistance and adjudication in their own communities.

The American Veterans Committee has taken the lead in focussing attention on the situation of women veterans, when women veterans were largely ignored or overlooked as part of the veterans population. In the late 1970's, we examined their status vis-a-vis veterans programs and found that they were largely a'forgotten population.' We called upon the VA to set up an Advisory Committee on Women Veterans. It was an honor for me, on behalf of AVC, to present testimony to this Committee in 1983 at hearings on the desirability of setting up such an Advisory Committee. When that Committee was created, and made statutory by legislation initiated by Senator Cranston, I was proud to serve as a member of that first Advisory Committee on Women Veterans of the VA, and on its Executive Committee, from 1983 to 1986. My book, WOMEN VETERANS:AMERICA'S FORGOTTEN HEROINES which chronicled the persistent pattern of neglect of women veterans was published in 1983. AVC'strong interest and expertise on the status of women veterans was further recognized when the Women's Bureau of the Department of Labor asked us to carry out a research project on the "Employment Problems of Women Veterans."

Consistent with the American Veterans Committee's continuing championing of minority rights, I was asked to head a Task Force on Veterans and Military Affairs for the Leadership Conference on Civil Rights during the 1970's which raised serious questions about the lack of meaningful activities by the VA to comply with Title VI of the Civil Rights Act of 1964 and the operations of the Contract Compliance Program. That Task Force, concerned that one of the largest Government agencies had not given sufficient attention or commitment to one of the most important laws of this century, effectively persuaded the VA to take remedial actions.

The American Veterans Committee is gratified that Senator Matsunaga early in this session of the Congress introduced legislation which would designate an Assistant Secretary at the DVA who would be responsible for monitoring and promoting the access of members of minority groups, including women, to services and benefits administered by the Department of Veterans Benefits. We thoroughly endorse S. 564 and urge this Committee to report it out favorably.

AVC at the beginning of the year proposed to then Secretary-designate Derwinski that an "office of women's issues" be formed at the new Department of Veterans Affairs. We pointed out that creation of the Department of Veterans Affairs presents a unique opportunity to further improve the relevance of veterans benefits programs to its women eligibles. In our communication to Mr. Derwinski, we noted that women veterans are the fastest growing segment of the veterans population (1985 Harris Survey), and it is likely that present participation of women in the armed forces will go up as the demographics point to a diminishing manpower pool in the 1990's. Today, women comprise 4.3% of the veterans population, a percentage that is projected to increase. On the other hand, the male veterans population has been steadily declining.

The evidence is that women veterans are less aware than their fellow male veterans of the benefits to which they are entitled. The Harris Survey (1985) revealed that for 11 out of 18 programs examined, less than half of the women veterans queried had heard of them. With over a million women in the veterans population, it is important that this deficiency of awareness be addressed. Therefore, we suggested that it would be good policy if provision was made that the special needs and problems are addressed systematically at DVA. We proposed that an "office of women's issues" would provide a needed channel for policy initiatives and implementation that could address in an effective and prompt manner whatever problems or situations occur that particularly affect women. Such an office would insure women veterans' recognition of their full participation in the veterans benefits programs which they earned by their military service.

S.564 addresses this need for minority veterans as well as women veterans. We heartily endorse this proposal. By having an Assistant Secretary of Veterans Affairs to focus on these groups at the DVA, complaints and grievances, examples of institutional insensitivity or malfunctioning, would receive the necessary attention. Even though the agency expresses commitment to meeting the needs of its minority and women veterans, it is crucial that management be organized so that problems can be addressed directly by a specific office with that responsibility. When staff must assume a myriad of functions, including oversight for specific populations, the problems of these groups are more likely to be overlooked or glossed over. By institutionalizing an office which would be responsible for the monitoring of the access of minority and women veterans to the programs administered by DVA, Congress would help meet a national commitment to ensure equality of treatment and access for all veterans.

Calling for establishing an office of Assistant Secretary to oversee minority and women veterans' issues in no way implies that the VA Advisory Committee on Women Veterans has not done its work or that it has somehow not met its mandate. On the contrary, as a result of the dedicated efforts of the Advisory Committee, important institutional changes have come about which have benefitted women veterans enormously. I suggest that the diligent efforts of the Advisory Committee have caused many corrections in practices and attitudes regarding women veterans in the VA system to take place.

However, an Advisory Committee is just that - it does not and cannot provide the necessary institutional framework for hands on continuing monitoring and review. An office of an Assistant Secretary, as proposed in S. 564, does provide such an important framework. The Advisory Committee on Women Veterans can be an important resource for this Office, and the Office can give enhanced authority and dispatch to the findings of the Advisory Committee.

There is another development that makes creation of such an Office of great importance to women veterans.The current trend of narrowing eligibilities and diminishing financial resources for veterans benefits, particularlarly in the health-care system, adversely affects women veterans as well as all other veterans.It is ironic that just as the VA system has begun to be responsive to the needs of women veterans and just as more women veterans are becoming aware of their eligibility for benefits, the benefits themselves are shrinking. Women veterans who have been shortchanged up to very recently, when they finally become aware of their benefits, may find they are not available. Having such an office in DVA will enhance the possibilities of women and minority veterans getting their fair share of the diminishing veterans benefits pie.

It is particularly urgent because of past omissions and inactions leading to underusage of the veterans benefits programs by women veterans and minority veterans, that public policies today provide remedies. In the past , equality of treatment has been found not to insure equality of results. Though there may be an absence of legal discrimination, for a large variety of reasons, minority groups including women, did not have equal access to benefits. Unequalness of situation often militates against desired equality of results, and has led to 'de facto 'exclusions. This, we think, has been true in the veterans benefits area where there has been almost no technically legal discrimination. Therefore, additional initiatives may be called for in order to compensate for past ommissions and try to achieve current 'parity' of treatment. S. 564 is such an initiative which deserves complete support by the Congress.

The American Veterans Committee thanks the Committee for giving us the opportunity to present our views on this important legislation.

STATEMENT OF

NOEL C. WOOSLEY
AMVETS NATIONAL SERVICE DIRECTOR

BEFORE THE

SENATE COMMITTEE ON VETERANS AFFAIRS

ON

S. 13, The "Veterans Benefits & Health Care Act of 1989",
Title I, Compensation & Other Benefits

S.564, A Bill to Provide for an Assistant Secretary of
Veterans Affairs to be Responsible for Issues Concerning
Minority Groups

S.1092, The "Veterans' Education Policy Improvement Act"

S.1003, The "Veterans' Education Assistance Improvements Act
of 1989"

S.563, A Bill Concerning Concurrent Payment of Military
Retirement Pay and DVA Compensation

June 9, 1989

Mr. Chairman, members of the Committee, AMVETS thanks you for this opportunity to comment on the various legislative initiatives which are currently pending action by this Committee.

I wish to begin by conveying our gratitude for the advocacy provided by you and Senator Murkowski, Ranking Minority Member, as well as all the Committee members and their staffs to ensure that veteran entitlement programs are adequately updated.

Title I of S.13

The provisions of Title I of S.13 will provide a positive impact on millions of our nation's veterans and their families.

Section 101 provides for a cost-of-living (COLA) increase in the basic rates of service-connected disability compensation and dependency and indemnity compensation (DIC). These new rates would be effective December 1, 1989, and would reflect the same increase as awarded under the provisions of Title II to those recipients of Social Security. AMVETS supports the provisions of Section 101 and would also like to once again go on record as opposing any attempt to index veterans benefits to the Consumer Price Index (CPI).

Mr. Chairman, AMVETS respectfully requests that as this Committee goes forward with this justly deserved compensation bill, you will take time to review the "K" award. This special monthly benefit paid to those veterans who have suffered a loss, or loss of use of, a single extremity or certain other body organs or functions, has not received favorable consideration for an increased payment for three years.

Section 102 - AMVETS supports this legislative initiative which will serve to offset the growing cost of food, housing, transportation and the other everyday living expenses incurred while training under the Department of Veterans'Affairs (DVA) Vocational Rehabilitation Program.

Section 103 - Increased educational assistance for individuals training under Chapter 35, a program for survivors and dependents of those veterans who died in service or are in receipt of a permanent and total disability rating of 100%. These beneficiaries are obligated to pay their own educational expenses and, while in training, do receive educational assistance (currently $376 per month) to defray a portion of their educational expenses. The increased rates will help offset the rapidly increasing costs of educational expenses which, it is estimated, have gone up 18% in the past four years for public institutions and 28% for private institutions. Therefore, AMVETS supports Section 103 of S.13.

Section 111 - AMVETS has been supportive of including those veterans who because of their service-connected disability may require medication that soils or damages clothing, and we do so now.

Section 112 - We support this section of S.13 as it will provide financial relief for those veterans who are most in need.

Section 113 - The provisions outlined in this section will serve to improve and continue one of the most effective employment programs ever established for the Vietnam-Era veteran. AMVETS therefore supports this legislative proposal.

Section 121 - While we have no official position on this proposal we would have no objection if it receives favorable consideration.

S.564

The provisions of S.564, introduced by Senator Matsunaga and co-sponsored by Senators Cranston, Murkowski, Mitchell, DeConcini and Inouye, propose, through appropriate amendment of Section 4 of the Department of Veterans Affairs Act of 1988 (Public Law 100-527), to provide for an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting the access of minority group veterans, including women, to benefits and services furnished by the Department of Veterans Affairs.

AMVETS feels strongly that the concerns of all minority veterans groups should be addressed at a high level within the Department. Such concerns should be given a high degree of visibility and should be reviewed and assessed by one individual who is accountable for the effects such policies have on minority groups.

We would support any legislative initiative which proposes to ensure that all veterans receive equitable treatment while receiving federal benefits they have earned.

S.1092, The "Veterans Education Policy Improvements Act"

Mr. Chairman, S.1092 would amend Title 38, USC., by implementing certain recommendations of the CVEP for veterans' education policy improvements concerning work study allowances, institutional reporting fees, distinctions in degree and non-degree training, and other provisions.

Section 2 - We support the proposal to require work-study allowances to be based on the higher of the Federal hourly minimum wage or the applicable State hourly minimum wage in which the veterans-student services are provided.

Section 3 - This section of the bill expands the eligibility requirements for work-study allowance to those survivors and dependents who are pursuing educational programs under Chapter

35. We are supportive of such a change in law.

Section 4 - We support the proposed changes incorporated herein.

Section 5 - AMVETS feels that many of the changes outlined in this section are long overdue and we support this proposal.

Section 6 - We have no objections to the proposed changes in this section and therefore support same.

Section 8 - This section of your bill would amend section 1780 of Title 38 concerning the provisions of mitigating circumstances. Difficulties beyond the control of the veteran or trainee should be included when making a decision on whether or not an overpayment should be created. AMVETS supports this section.

S.1003, The "Veterans' Educational Assistance Improvements Act of 1989"

The Department of Veterans Affairs initiated this legislation which includes a total of ten provisions addressing vocational rehabilitation, education assistance, and other administrative and technical amendments.

Section 101 - AMVETS feels that the program wherein certain nonservice-connected pension recipients receive vocational rehabilitation and thus have a chance to become productive citizens once again should continue and improve. This section proposes some major improvements and we support them.

Section 102 - We find nothing in this section that we would oppose or object to, therefore we are supportive.

Section 103 - AMVETS supports this section and would hope that the DoD will encourage new recruits to enroll.

Section 104 - AMVETS strongly supports this section of S.1003. Although we believe it is reasonable for the Department to pay work-study students retroactively for work they have performed, we do not support the elimination of advance payments for Chapter 31 beneficiaries.

Section 106 - Proposes, through appropriate amendments to authorize work-study benefits to (a) Chapter 31 vocational rehabilitation trainees and to (b) Chapter 34 trainees who have a service-connected disability rated 50% or more, if such Chapter 31 and Chapter 34 veterans are pursuing training at a half time or greater rate. Currently, this benefit is provided to veterans who are pursuing only full-time training under the Chapter 30, 31, 32, or 34 programs. We support such a change of law.

Section 201 of S.1003 - AMVETS strongly opposes this provision which would eliminate the advance payment of subsistence allowance for Chapter 31 beneficiaries. The Department argues that in view of the fact the DVA pays all training costs for such veterans, advance payment of subsistence allowance is not warranted. We oppose elimination of this authority and urge that this recommendation not be accepted by the Congress.

Section 204 - This section generally standardizes certain provisions in several DVA education programs. We believe it represents the basic philosophy expressed by several of the CVEP's recommendations which we supported earlier in this testimony.

S.563, A Bill to Provide Concurrent Payment of Military Retired Pay and DVA Disability Compensation

Mr. Chairman, in your letter(s) of invitation to testify during today's proceedings you requested our views on (draft) legislation derived from S.563, which Senator Matsunaga intends to submit as an amendment to S.190. (S.190 and S.563, bills introduced earlier this year by Senator Matsunaga, relate to the issue of concurrent receipt of military retirement pay and DVA disability compensation benefits.)

The eventual passage or defeat of this legislation is a matter of great concern to both AMVETS and The Retired Enlisted Association (TREA), as TREA was not invited to testify before this committee with respect to S.563, which will amend S.190 please consider the following remarks as representative of both organizations.

Mr. Chairman, we commend you and your committee for holding these hearings that hopefully will result in allowing concurrent receipt of military retired pay based on longevity and Department of Veterans Affairs compensation for service-connected disabilities without reduction to either.

The military retiree is the only class of citizen who must pay for their disability compensation from their retirement check. We have asked these brave servicemembers to serve in one, two or more conflicts during time of need, under tremendous duress and danger. We ask these career servicemembers and their families to suffer great personal hardships in time of peace. How many Americans are willing to leave their families behind for 6 to 13 months as their ships or units deploy around the world to serve our nation's interest? There are approximately 27.3 million living veterans that have had the opportunity to serve their nation for 20 or more years. Only 1.2 million were able or willing to serve for 20 or more years, and yet the government fails to abide by its commitment to provide full military retirement.

We believe it is also important to note that funding necessary to correct this gross injustice would not come from the DVA, but rather from the Department of Defense (DoD).

As it stands today, every dollar that a military retiree receives for compensation for service-connected disabilities is pocketed by the DoD. The military retiree's pay is reduced dollar-for-dollar by any compensation received, yet DoD is under no obligation to reimburse the DVA.

Should an oil or utility company indulge in a similar practice, the outrage over such a windfall would be deafening. There is no doubt their customers (the military retiree) would be compensated for in the future.

American Veterans of World War II, Korea and Vietnam (AMVETS), together with The Retired Enlisted Association (TREA) comprised of almost 50,000 enlisted men and women retired from the U.S. Armed Forces for longevity, urges this committee to support legislation that would permit the concurrent receipt of military retired pay based on longevity and DVA compensation for service-connected disabilities without reduction to either.

AMVETS and TREA appreciate the opportunity to participate in the democratic process and further appreciate any consideration given to both associations' position.

STATEMENT OF THE HONORABLE MICHAEL BILIRAKIS
SENATE COMMITTEE ON VETERANS AFFAIRS
JUNE 9, 1989

MR. CHAIRMAN, I AM PLEASED THE SENATE COMMITTEE ON VETERANS AFFAIRS IS CONDUCTING THIS HEARING ON S. 563, INTRODUCED BY MY FRIEND SENATOR SPARK MATSUNAGA. ON APRIL 14, 1988, THE HOUSE VETERANS AFFAIRS SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE HELD A HEARING ON H.R. 303 WHICH IS COMPANION LEGISLATION TO S. 190 AND SIMILAR TO S. 563. THAT HEARING MARKED THE FIRST TIME CONGRESS HAD EVER ADDRESSED THIS IMPORTANT ISSUE. THUS, I AM CERTAIN THAT THE MORE THAN 300,000 DISABLED MILITARY RETIREES ARE PLEASED THIS COMMITTEE IS CONDUCTING A HEARING ON S. 563.

AS THE HOUSE SPONSOR OF H.R. 303, I AM REQUESTING YOUR ASSISTANCE IN THIS EFFORT TO ELIMINATE THE FUNDAMENTAL INEQUITY IN CURRENT LAW WHICH REQUIRES MILITARY RETIREES TO PAY FOR THEIR VA DISABILITY COMPENSATION OUT OF THEIR MILITARY RETIREMENT. S. 563 IS A FAIR COMPROMISE IN THAT IT ESTABLISHES THE RIGHT OF DISABLED MILITARY RETIREES TO RECEIVE BOTH V.A. DISABLILITY AND MILITARY RETIREMENT INVERSELY RELATED TO THE SEVERITY OF THEIR DISABILITY. AS YOU KNOW, A 19TH CENTURY LAW REQUIRES MILITARY RETIREES TO WAIVE DOLLAR FOR DOLLAR THE AMOUNT OF THEIR MILITARY RETIREMENT EQUAL TO THE AMOUNT OF THEIR VA DISABILITY COMPENSATION.

THE ELIMINATION OF THIS OFFSET IS LONG OVERDUE. CAREER MILITARY RETIRED VETERANS ARE THE ONLY GROUP OF FEDERAL RETIREES WHO ARE REQUIRED TO WAIVE THEIR RETIREMENT PAY IN ORDER TO RECEIVE VA DISABILITY. THIS 19TH CENTURY WAIVER REQUIREMENT IS ENTIRELY INEQUITABLE BECAUSE A MILITARY RETIREE IS UNJUSTLY PENALIZED BY THE FACT THAT HE CHOOSE THE MILITARY SERVICE AS HIS CAREER. IN EFFECT, THE MILITARY RETIREE IS SINGLED OUT SOLELY BECAUSE OF HIS CAREER CHOICE.

IT IS DEEPLY DISTURBING THAT THIS BRAVE GROUP OF DISABLED RETIRED VETERANS ARE THE ONLY GROUP OF FEDERAL RETIREES WHO CANNOT COLLECT THEIR RETIREMENT FOR HAVING SERVED THEIR COUNTRY FOR TWENTY YEARS OR MORE AND ALSO RECEIVE THEIR VA DISABILITY FOR A SERVICE-CONNECTED INJURY DEPENDING ON THEIR PERCENTAGE OF DISABILITY.

IN THE HOUSE OF REPRESENTATIVES, H.R. 303 HAS RECEIVED WIDESPREAD BIPARTISAN SUPPORT FROM 241 OF THE HOUSE MEMBERS AND HAS BEEN ENDORSED BY 18 VETERANS ORGANIZATIONS INCLUDING THE AMERICAN LEGION, DISABLED AMERICAN VETERANS, VETERANS OF FOREIGN WARS, UNIFORMED SERVICES DISABLED RETIREES, MILITARY ORDER OF THE PURPLE HEART, NON-COMMISSIONED OFFICERS ASSOCIATION, RESERVE OFFICERS ASSOCIATION, FLEET RESERVE ASSOCIATION, THE RETIRED

ENLISTED ASSOCIATION, CATHOLIC WAR VETERANS, AIR FORCE SERGEANTS ASSOCIATION, THE JEWISH WAR VETERANS, NATIONAL MILITARY FAMILY ASSOCIATION, NATIONAL ASSOCIATION FOR UNIFORMED SERVICES, AMVETS, THE RETIRED OFFICERS ASSOCIATION, AND THE AMERICAN RETIREES ASSOCIATION.

GIVEN THIS OVERWHELMING SUPPORT IN CONGRESS AND IN THE VETERANS COMMUNITY, CONGRESS SHOULD BE COMPELLED TO TAKE ACTION ON THIS MATTER.

I WOULD LIKE ALL OF MY COLLEAGUES TO JUST REMEMBER ONE THING: S. 563 IS SIMPLY A MATTER OF EQUITY. IT IS OUR DUTY AS MEMBERS OF CONGRESS TO ELIMINATE INEQUITABLE LAWS, SUCH AS THE OFFSET IN CURRENT LAW. S. 563 IS A FAIR BILL AND IT WILL HELP US FULFILL THIS DUTY TO TREAT ALL FEDERAL RETIREES IN A FAIR AND EVENHANDED MANNER.

LET ME GIVE YOU JUST A FEW EXAMPLES OF OTHER FEDERAL PERSONNEL RECEIVING DISABILITY PAYMENTS AND RETIREMENT. FOR EXAMPLE, IT IS POSSIBLE TO HAVE TWO FEDERAL RETIREES WITH THE SAME SERVICE-CONNECTED DISABILITY SUFFERED IN THE SAME BATTLE WHO

HAVE WORKED THE SAME NUMBER OF YEARS IN FEDERAL SERVICE TREATED DIFFERENTLY. WHY? BECAUSE ONE SERVED ALL HIS YEARS IN THE MILITARY AND THE OTHER SERVED ONLY TWO YEARS IN THE MILITARY AND THE REMAINDER IN CIVIL SERVICE.

THE MILITARY RETIREE MUST PAY FOR HIS DISABILITY BENEFITS FROM HIS RETIREMENT CHECK. BUT THE CIVIL SERVICE RETIREE MAY RECEIVE BOTH HIS CIVIL SERVICE RETIREMENT AND HIS VA DISABILITY IN SPITE OF THE FACT THAT HIS MILITARY SERVICE IS INCLUDED IN CALCULATING HIS CIVIL SERVICE RETIREMENT AND IN SPITE OF THE FACT THAT HE HAD BEEN RECEIVING VA DISABILITY DURING ALL THE YEARS AS A CIVIL SERVANT.

IN ANOTHER CASE, TWO VETERANS COULD BOTH BE RATED 100% SERVICE-CONNECTED DISABLED AND BOTH RECEIVE THE SAME AMOUNT OF VA DISABILITY EVEN THOUGH ONE SERVED FOR TWO YEARS IN THE MILITARY AND THE OTHER SERVED FOR TWENTY. THE TRAVESTY IN THIS SITUATION IS THAT THE DISABLED CAREER VETERAN HAS HIS ENTIRE RETIREMENT ANNUITY OFFSET BY HIS VA DISABILITY COMPENSATION.

I'M ANXIOUS THAT CONGRESS CLOSELY SCRUTINIZE THIS POLICY AND THE RATIONALE FOR TREATING CAREER MILITARY DIFFERENTLY FROM THE SHORT-TERM VETERAN. AS I STATED A FEW MOMENTS AGO, AN INDIVIDUAL WITH ONLY A FEW YEARS OF SERVICE CAN CONTINUE A CAREER IN PRIVATE OR GOVERNMENT EMPLOYMENT (WHILE AT THE SAME

TIME RECEIVE VA DISABILITY COMPENSATION), THEN APPLY HIS MILITARY SERVICE TOWARD CIVIL SERVICE, AND RECEIVE RETIREMENT PAY CONCURRENTLY WITH VA DISABILITY BENEFITS.

PROBABLY THE MOST FRUSTRATING FACT TO ME IS THAT WE HAVE ASKED THESE BRAVE MEN AND WOMEN TO SERVE DURING A TIME OF NEED, UNDER TREMENDOUS DURESS AND DANGER, AND YET THE GOVERNMENT FAILS TO ABIDE BY ITS COMMITMENT TO PROVIDE FULL MILITARY RETIREMENT. HOW CAN WE POSSIBLY EXPECT TO MAINTAIN A VIABLE NATIONAL DEFENSE IF SERVICEMEMBERS REALIZE THAT IF THEY EXPERIENCE A SERVICE-CONNECTED DISABILITY THEY CANNOT RECEIVE VA DISABILITY AND MILITARY RETIRED PAY? MILITARY PERSONNEL CANNOT PROTECT THEMSELVES FROM LOSS OF INCOME THROUGH THE PURCHASE OF PRIVATE DISABILITY INSURANCE OR SEEK REDRESS THROUGH LEGAL ACTION AGAINST THE U.S. GOVERNMENT. CONGRESS SHOULD CAREFULLY REVIEW THIS MATTER WITH REGARD TO THE OFFSET'S EFFECT ON OUR NATION'S ABILITY TO RECRUIT AND RETAIN QUALIFIED, MILITARY CAREER PERSONNEL.

AS THE SPONSOR OF THE HOUSE LEGISLATION, I HAVE ENCOUNTERED MANY ARGUMENTS FROM OPPONENTS WHICH I WOULD LIKE TO BRIEFLY ADDRESS. WITH REGARD TO THE STATEMENT THAT MY BILL WOULD ENABLE RETIRED

VETERANS TO "DOUBLE DIP", I CONTEND THAT THERE WOULD NOT BE ANY DUPLICATION OF BENEFITS IF H.R. 303 WERE ENACTED. MY BILL WOULD NOT ENABLE THE RETIRED DISABLED VETERAN TO RECEIVE TWO PAYMENTS FOR THE SAME DISABILITY. DISABILITY COMPENSATION AND DOD LONGEVITY PAY ARE ENTIRELY SEPARATE PROGRAMS WITH ENTIRELY DIFFERENT PURPOSES. RETIREMENT PAY IS EARNED FOR TWENTY YEARS OR MORE OF FAITHFUL SERVICE AND IS AN INDUCEMENT TO ATTRACT AND RETAIN QUALIFIED PERSONNEL TO THE MILITARY AS A CAREER.

VA DISABILITY COMPENSATION, ON THE OTHER HAND, WAS ESTABLISHED TO REPLACE THE LOSS OF EARNINGS ATTRIBUTABLE TO A SERVICE-CONNECTED OR SERVICE-AGGRAVATED INJURY. DISABILITY COMPENSATION ALSO SERVES TO COMPENSATE THE DISABLED VETERAN FOR HIS REDUCED ABILITY TO COMPETE FOR CIVILIAN EMPLOYMENT.

IT IS QUITE CLEAR TO ME THAT DOD LONGEVITY PAY AND VA DISABILITY BENEFITS ARE VASTLY DIFFERENT: THE FORMER RELATES TO LENGTH OF HONORABLE SERVICE IN THE ARMED FORCES AND THE LATTER RELATES TO DISABILITY AND SUBSEQUENT LOSS OF EARNING POTENTIAL.

MR. CHAIRMAN, DISABLED MILITARY RETIREES OFTEN ARE SOLELY DEPENDENT UPON VA DISABILITY AS MANY CANNOT EARN AN INCOME

ELSEWHERE. STATISTICS CLEARLY INDICATE THAT DISABLED VETERANS HAVE A MUCH LOWER EARNING POTENTIAL THAN THE CIVILIAN FORCE. THEREFORE, THESE SERVICEMEN WHO IN THE LINE OF DUTY BECAME DISABLED ARE SINGLED OUT AS THE ONLY GROUP OF FEDERAL RETIREES WHO CANNOT COLLECT BOTH THEIR RETIREMENT AND VA DISABILITY. AGAIN, WHY DO WE COMPENSATE THE NON-CAREER VETERAN FOR DISABILITIES AND NOT THOSE WHO HAVE SACRIFICED AND SERVED THEIR COUNTRY THE LONGEST?

I AM CONVINCED THAT THERE IS NO SOUND POLICY FOR NOT ALLOWING RETIRED CAREER MILITARY TO COLLECT THEIR RETIREMENT PAY AND THEIR VA DISABILITY COMPENSATION. THE COST ASSOCIATED WITH H.R. 303 IS PERHAPS THE ONLY LOGICAL IMPEDIMENT TOWARD ENACTMENT. COST ESTIMATES FROM THE DEPARTMENTS OF DEFENSE AND VETERANS AFFAIRS AND THE CONGRESSIONAL BUDGET OFFICE HAVE BEEN VARIED: FROM $2 BILLION TO $900 MILLION. HOWEVER, BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE ON APRIL 14, 1988, THE DOD WITNESS TESTIFIED THAT $762 MILLION IS WAIVED ANNUALLY BY THE DISABLED MILITARY RETIREES. THIS FIGURE, I BELIEVE, IS A MORE ACCURATE ACCOUNTING.

CBO HAS ESTIMATED THAT THE ENACTMENT OF S. 563 WOULD COST THE DEPARTMENT OF DEFENSE -- NOT THE DEPARTMENT OF VETERANS AFFAIRS -- APPROXIMATELY $200 MILLION. AND ONE IMPORTANT POINT THAT MUST BE EMPHASIZED IS THAT THIS ESTIMATE DOES NOT CONSIDER THE TAX REVENUES GENERATED FROM MILITARY RETIREMENT WHICH IS FULLY TAXABLE. OBVIOUSLY THOSE REVENUES WILL PARTIALLY OFFSET THE COST OF S. 563.

MR. CHAIRMAN, THIS COMMITTEE REVIEW OF S. 563 PRESENTS A TREMENDOUS OPPORTUNITY FOR CONGRESS TO ADDRESS THIS INEQUITY IN CURRENT LAW. I URGE YOU TO FAVORABLY CONSIDER THIS MATTER SO THAT RETIRED VETERANS WHO SHOULD BE REWARDED RATHER THAN PENALIZED FOR HAVING SERVED THEIR COUNTRY FOR 20 PLUS YEARS CAN RECEIVE THE COMPENSATION THEY HAVE EARNED.

THANK YOU MR. CHAIRMAN.

Statement of John W. Davis, Vice President for Student Services, Asheville-Buncombe Technical Community College, Asheville, North Carolina; James A. Kiser, Jr., Coordinator for Student Services, South Carolina State Board for Technical and Comprehensive Education, Columbia, South Carolina; and Julie Harden, Veterans Officer, University of South Carolina, Columbia, South Carolina, before the Senate Committee on Veterans' Affairs, United States Senate, June 9, 1989.

Mr. Chairman and members of the Committee, we are pleased to have the opportunity to present our views on important issues concerning our veterans. We represent approximately two hundred two- and four-year colleges in North and South Carolina.

We would first like to address the report of the Commission to Assess Veterans' Education Policy; but with consideration for your time, we will not elaborate on each issue. We concur with the vast majority of the Commission's recommendations, so we will address only those issues we question and those we strongly support.

We are pleased that the Commission recommended the abolition of the limit on the number of changes of program a veteran can make. Career choice is one of the most difficult we face, and veterans are no exception. (The average college student changes majors three times.)

Abolishing the limit on program changes MUST be accompanied by the requirement for counseling prior to a second change of program. We feel strongly, however, that the VA should approve recommendations from QUALIFIED school counselors. Regional accreditation standards require schools to provide professional counseling services to their students, and these counselors are routinely involved in assisting students in career choices. Testing of interest, aptitude, ability, and achievement is available; and the results of these tests aid in determining suitable options for students. It makes little sense educationally or economically to have a veteran travel to a regional office or elsewhere for a brief interview with a total stranger who has limited knowledge of the veteran and his objectives. As the Commission report indicates, new student veterans will likely be more serious and mature, and anticipated abuse should be minimal.

We concur with the Commission's recommendation regarding recovery of overpayments. It is our strong belief that overpayments will virtually be eliminated if monthly certification is required. It should be noted that the overpayment problem began when Congress authorized prepayment and advance payment of benefits; and, simultaneously, the requirement for monthly certification cards was removed. We have recommended repeatedly that monthly certification be reinstated and that cooperation of other governmental agencies be mandated for debt recovery. Nothing else is as affective.

We are very pleased that the Commission saw fit to recommend the removal of arbitrary distinctions in the treatment of degree and nondegree programs. We must keep in mind that it is student veterans who are being treated unjustly by these distinctions simply because of their choice of a career. It is also gratifying to note that the VA made proposals to rectify the inequity in absence reporting for veterans enrolled in NCD programs. To illustrate just how unfair the current system is, we offer the example of a veteran in a NCD program in a North Carolina community college. The veteran maintained **perfect attendance**; yet due to the school's schedule of holidays, class breaks, etc., the veteran was charged with two days **excessive absence**. To compound this absurdity--since he was paid on the basis of a thirty day month and repayment for absences was based on a twenty day month--he actually had to pay back three days instead of two. All of this while having perfect attendance.

We cannot agree with the Commission's first recommendation regarding measurement. They recommend that the rate of benefits be based on progress rather than rate of pursuit. Due to the great diversity of programs concerned, we feel that this change would create tremendous administrative problems for schools and a monitoring nightmare for the VA.

We strongly agree that state approving agencies determine what constitutes an approved program. These agencies as units of state systems should be in the best position to have certain knowledge of program content, quality, and reputation. Further, SAA's are available to assist schools with compliance should a school need such assistance.

We would now like to address the issue of credit-hour measurement alluded to in the second recommendation under "measurement." This change is long overdue. At a time of budget reductions and the resultant loss of personnel by the VA as well as our colleges, the most recent change in measurement recommended by the VA and adopted by Congress provides for **four** possible methods of measurement. Four methods are not needed, do not solve the problem, and create an administrative nightmare. Even VA officials who wish not to be identified state their desire to see changes made.

The four methods currently authorized are standard credit-hour measurement, mixed measurement, clock-hour measurement (with four variations), and alternate credit-hour measurement. In the event you find this confusing, take heart, you are only one of many.

We will address only the standard credit-hour measurement, because it is most needed and is the only one that is equitable with recommended deletion of the "test" that is now required.

The following is extracted from the VA's DVB Circular 20-87-7, Appendix A, entitled "Measurement of Non-Degree Courses at Institutions of Higher Learning."

4. Requirements for Standard Credit-Hour Measurement Category. An undergraduate level NCD program taken at an institution of higher learning will be measured on a purely credit-hour basis if:

a. The program is offered by a fully accredited institution of higher learning. By "fully accredited" the VA means fully accredited by an accrediting agency recognized by the Secretary of Education as provided in Sect. 1775(a) of Title 38, USC.

b. The courses in the program are offered in residence on a standard quarter- or semester-hour basis. This means that the class schedules for these courses provide at least one standard class session each week for each credit hour. (A standard class session is defined as one hour (or fifty-minute period) of academic instruction, two hours - 120 minutes - of laboratory instruction, or three hours - 180 minutes - of workshop training.) This scheduling requirement is considered met if each course in the program is offered during the ordinary school year as defined in 38 CFR 21.4200(b) on a schedule which meets the minimum standard class session requirements. Entitlement to standard credit-hour measurement is not affected by the fact that some course schedules may exist during the summer term which provide insufficient classroom training.

c. The program is approved under Sect. 1775 of Title 38 (i.e., approved as an accredited program).

d. The program meets the new majority test. Under this test, a majority of the total credits required in the NCD program must be derived from unit courses or subjects offered by the same institution as part of at least one particular standard college degree program. If the NCD program includes elective courses, **all** possible combinations of courses that the student could take within the program must meet the majority test.

The "test" in effect says that a noncollege degree curriculum can only be acceptable if it is transferable to a degree program. This is, on the surface, totally absurd. Suppose the degree program itself is of poor quality? What is the justification for such a "test"? Keep in mind that accrediting agencies accredit the entire college not just the degree programs.

It is very difficult for us to understand the reluctance of some people to realize and accept the fact that vocational education no longer needs the extensive monitoring that was dictated immediately after World War II. Had our colleges been as reluctant to change as has the VA, this Nation would have suffered greatly.

The solution is simple. We must adopt the credit-hour formula outlined in paragraph 4b--but recognize the standard 50 minute "hour" in laboratory instruction and workshop training--of the DVB circular and omit the "test" outlined in paragraph 4d. The credit-hour formula specified in 4b with the above adjustment will dictate more than adequate contact hours. The VA states that further study is needed before changes are made. While there may be certain areas of measurement that need additional study, the IHL/NCD credit-hour issue is not one of them. We first brought this inequity to the attention of the VA in 1971 and to Congress through testimony before the House Committee on Veterans' Affairs in 1973 and the Senate Committee in 1974. The masterful move by the Senate Committee in appointing the Commission to Assess Veterans' Education Policy was designed to study these issues. The composition of the Commission was outstanding in our judgment since it represented all segments involved with veterans education. We feel that the Commission did a superb job, and its recommendations are the most comprehensive and sensible we have seen in our nearly twenty years of involvement with these issues. We submit that enough "studying" has been done, and it is now time for action.

The VA expresses concern that "industry standards and strong accreditation procedures" should be present before changes are made. We agree with this belief and submit that these standards and accreditation procedures are in place and have been for a number of years. If the VA and/or Congress has a problem with any accrediting agency standards, then the Office of Education, which approves accrediting agencies, should be contacted.

The credit-hour formula applied equally to NCD and IHL courses in accredited institutions which offer both types of courses will solve many problems. These institutions are in the majority and the old fly-by-night vocational schools are largely history. Should there be institutions which are found "cheating" consistently or which fail to maintain standards, then state approving agencies should withdraw their approval. We do not feel that undue restrictions should be placed on all veterans in NCD programs simply because a few disreputable schools might attempt to "beat the system."

We mentioned earlier that it is now time for action, and we are greatly pleased that Senator Cranston as Chairman of this Committee agrees and has introduced legislation to implement a number of much needed changes. We strongly support every provision of S-1092 and urge the full Committee to support this legislation. We request that the Committee include a provision to enable accredited colleges which offer both NCD and IHL types of courses to measure both on credit hours. (It is important to note that credit hours are the standard unit of measurement in such schools.)

Again, we thank the Committee for the opportunity to provide this written testimony.

STATEMENT ON

VETERANS EDUCATION POLICY AND OTHER PENDING VETERANS LEGISLATION

S.1003, S.190, S.563, AND H.R. 2192

TO THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE
9 JUNE 1989

BY
ROBERT W. NOLAN
NATIONAL EXECUTIVE SECRETARY
FLEET RESERVE ASSOCIATION

FLEET RESERVE ASSOCIATION
Serving Career Enlisted Personnel of the
U.S. NAVY • U.S. MARINE CORPS • U.S. COAST GUARD
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INTRODUCTION

Mr. Chairman and members of this distinguished Committee, I am Robert W. Nolan, National Executive Secretary of the Fleet Reserve Association. The FRA is a military service organization comprised of 152,259 enlisted personnel, active duty and retired, of the United States Navy, Marine Corps and Coast Guard. As a retired Navy Chief Petty Officer, it is my privilege to express the views of not only my FRA Shipmates, but for all enlisted personnel of the Sea Services.

We, of the FRA, thank you for giving us this opportunity to express our concerns on Veterans Education Policy. In addition to this subject, I wish to devote the major portion of our statement to speak of the concerns of FRA members on three vital veterans issues before this Committee.

1. Equal benefits under the Peacetime G.I. Bill for members of the Selected Reserve and National Guard that active duty beneficiaries receive;
2. An extension of the Cold War G.I. Bill benefits for qualified veterans who were discharged between the dates of 31 December 1979 and 30 June 1988; and
3. To remove the gross inequity regarding the concurrent receipt of military retired pay and veterans service-connected disability compensation.

PRESENTATION

VETERANS EDUCATION POLICY

The FRA appreciates receiving the background material on the subject of Veteran's Education Policy which the Committee provided us with. Unfortunately, our National Committee on Legislative Service has not had enough time to digest the "Executive Summary" of the interim report of 28 February 1989 prepared by the Department of Veterans Affairs. Therefore, we believe it would be wise to wait until our Committee has had time to fully consider the matter before taking an official position on the various points and provisions of the issue. FRA will be pleased to submit its position in writing for the record in the foreseeable future if this Committee requests us to do so.

EQUITABLE G.I. BILL BENEFITS FOR SELECTED RESERVISTS AND NATIONAL GUARDSMEN

Under current law, guardsmen and reservists going to school under the G.I. Bill may only pursue undergraduate courses at institutions of higher learning. FRA believes there are four primary justifications for removing this restriction.

First, there is the issue of equity between active duty G.I. Bill participants and selected reserve participants. In order to be consistent with the Total Force policy which underlies our national military strategy, educational opportunities available under the Peacetime G.I. Bill should be consistent between both sides of the force.

Secondly, expanding the programs available to members of the National Guard and the Reserve would increase the incentive value of the G.I. Bill as a recruiting and retention tool. If the Total Force is to be successful, the Reserve side of that Force must be able to attract and retain high quality personnel. We already know the G.I. Bill has helped the selected Reserve. Expanding approved courses of study will make a good program even better and more effective. It should also be kept in mind that the current restriction to under graduate courses severely limits the retention value of the G.I. Bill for a highly educated officer corps.

Third, the selected Reserve would benefit from an expansion in approved courses because many vital readiness skills require hands-on vocational training or advanced degree studies which are now unavailable to members of the Guard and Reserve. Training in skills such as those related to electronics, computers, and automotives would directly enhance the military capabilities of Reserve Units.

And lastly, individuals serving in the selected Reserve would benefit personally if educational opportunities open to them were broadened. Not everyone wants or needs to pursue college-level training. In fact, projections for the year 2000 from the Department of Labor indicates some of the fastest growing occupations are those that don't require a college diploma but do require vocational or technical training.

There has been concern about the cost of these provisions expressed. We are well aware of the budget deficit but the FRA truly believes the enactment of this education incentive will prove to be "bread cast upon the waters" because of the numbers of capable young men and women it will bring in and keep in the selected Reserve and the National Guard, thereby reducing recruiting and training costs.

THE COLD WAR G.I. BILL

TERMINATION DATE INEQUITY

Veterans who left the service between 31 December 1979 and 30 June 1988 are not granted the normal ten year period to use the Cold War G.I. Bill benefits. The ten year period has traditionally been from date of discharge. Furthermore, those veterans who have earned up to their full three years, nine months' worth of benefits may actually be in the situation of getting out of the service and having only one year, six months to use them. This is certainly not fair to the military member who in good faith earned education benefits while serving his country. Many eligible veterans now attending school will be cut off at year's end.

The Fleet Reserve Association achieved landmark success twenty-two years ago in its G.I. Bill endeavors when it convinced U.S. Senator Ralph W. Yarborough (D-TX) to amend his bill creating the Cold War G.I. Bill (S-9) to insert the word "LAST" before discharge in establishing that G.I. Bill's termination date. Heretofore, the World War II and Korean G.I. Bills had termination dates of ten years after a service person's first discharge after the date of qualifying for the G.I. Bill benefits. Thus, for the first time, a service person could serve a military career and have the readjustment assistance afforded by the G.I. Bill when he returned to civilian pursuits. For the first time, a military careerist did not have to abandon his military career to receive a higher education under his earned entitlements of the G.I. Bill.

But this benefit did not last as the Congress and the Administration nullified the Cold War G.I. Bill with the enactment of the Veterans Educational Assistance Program (VEAP) and enacted a new termination date of 31 December 1989 for Cold War G.I. Bill education benefits.

This inequity has been brought to the attention of the U.S. Congress in recent years to no avail. Various measures have been introduced to resolve the problem but none have been seriously considered by this Committee. The resolution of this long standing inequity lies within the provisions of H.R. 2192, sponsored by U.S. Rep. John J. Rhodes, III of Arizona.

H.R. 2192 addresses a distinct group of individuals, those earning benefits prior to 1977 who separate from the military service after 31 December 1979 but before 30 June 1988. These veterans have earned up to 45 months of educational benefits. Yet a veteran who got out of the service on June 29, 1988 and thus is not eligible for the Montgomery G.I. Bill, has until December 31, 1989, or merely 18 months to use all these benefits.

H.R. 2192 would give the veteran up to 60 months, until 30 June 1993 to use these educational benefits.

Why specifically the 5-year period, because the FRA agrees with U.S. Rep. Rhodes that we must be pragmatic and recognize the constraints and limits of available budgetary resources. We fully recognize U.S. Rep. Rhodes' wisdom in selecting the last affected veteran, the one discharged 30 June 1988, and asked how long is fair, given the fiscal constraints, to allow this veteran to use 45 months of benefits. FRA agrees that 60 months, or five academic years, starting at the date of discharge. H.R. 2192, also retains the 10 year time-limit. Those who separated earlier, for example, 1980, will not be given more than ten years to use their benefits. Thus, this veteran will not be eligible for benefits after 1990, ten years after date of discharge. This holds with the intent of the original Cold War G.I. Bill provision which the FRA originally sponsored.

FRA strongly recommends the incorporation of the new provisions of H.R. 2192 into pending legislation emerging from this Committee to the floor of the U.S. Senate. In this matter this gross inequity can be resolved following the House's favorable action on H.R. 2192.

THE PROHIBITION OF CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS DISABILITY COMPENSATION

The FRA views this prohibition as grossly inequitable. The military retiree is the only disabled veteran who must forfeit personal income to receive his honorably earned service connected disability compensation. It is important to note that the vast majority of the FRA's 152,000 members are not only wartime veterans but most have qualified as a wartime veteran in two or more of our nation's last four wars. For those military retirees who have the unique dual status as a military careerist and a disabled veteran the prohibition of concurrent receipt of military retired pay and disability compensation is unjustified.

HISTORICAL BACKGROUND

A review of the history of this matter reveals that the prohibition against dual benefits for military retirees dates back to 1891, Act of March 3, 1891, ch. 584, 26 Stat. 1082. It was not until the Act of May 27, 1944, ch. 209, 58 Stat. 231 that the optional waiver of military retired pay in lieu of tax-exempt veterans disability compensation of equal dollar value was enacted.

While the prohibition against dual benefits became law in 1891, enlisted Navy personnel did not have the entitlement of military retirement until eight years later in 1899. Army and Marine Corps enlisted personnel had gained their military retirement right in 1885. However, no enlisted personnel of the military were entitled to military disability retirement until the first enlisted disability retirement system was established by law in 1949.

PURPOSE OF DISABILITY LAWS

It would be wise to clarify the diverse purpose of the military disability retirement and veterans disability compensation laws. Because even though both laws grant compensation for disability, the compensation is granted under different circumstances and conditions for different reasons.

The laws governing military disability retirement define the individual's disability as it pertains to his capacity to perform full military duty. The percentage of disability is graded to measure the incapacity to perform full duty. Furthermore, the disability must be rated at 30 percent or more disabling and be permanent in nature to qualify for full military disability retirement. Hence the military disability retirement system has provisions for a temporary disability retirement status of a maximum five year duration in which the disability condition has time to stabilize. The military retirement disability law does not take into consideration the average impairment of earning capacity that may be anticipated through the individual's lifetime as a result of the disability incurred in military service.

However, the law governing service-connected disability compensation for veterans is quite different. In considering this issue we cannot ignore the purposes of disability compensation, and their marked difference from longevity retired pay. Such an analysis follows:

FIRST The paramount purpose of disability compensation, whether its source be the military service or the Veterans Administration, is to "compensate the veteran for the personal anguish caused by the permanent disability..." 1/

1/ by the permanent disability..." In re Marriage of Jones, 119 Cal. Rptr. 108, 531 P.2d 420, 421 (1975). Specifically, disability compensation is "for the pain, suffering, disfigurement and the misfortune caused by (the veteran's) disability." Id. at 424. "(D)isability pay serves primarily to compensate the disabled serviceman for current suffering..." Id at 23/425.

SECOND Accordingly, disability compensation is "predicated on the disability, without regard to whether the veterans remain in the service and without any relation to any such subsequent service." 1/

THIRD Veterans Administration compensation is "not an earned property right which accrues to the veteran by reason of his years of service in military service, but is for personal injury or disease to him for service-connected disability." 2/

FOURTH Disability compensation also serves "to compensate the disabled veteran for the loss of his active duty military pay caused by his early retirement..." 3/

FIFTH Finally, disability compensation serves "to compensate the disabled veteran...for his reduced ability to compete for civilian employment." 4/

Furthermore, in recognition of these purposes, the disability is graded by a percentage in multiples of ten ranging from 0 percent to 100 percent.

1/ 23 Comp. Gen 284, 286 (1943), cited with approval by 26 Comp. Gen. 711, 715 (1947).

2/ Ramsey v. Ramsey, 474 S.W.2d 939, 941 (Tex. Ct. App. 1971), cited with approval by Ex Parte Johnson, 583 S.W.2d 660, 662 (Tex. Ct. App. 1979). Specifically, disability compensation "does not serve as a form of deferred compensation for past services." Luna v. Luna, 125 Ariz. 120, 608 P.2d 57, 62 (Ct. App. 1979); In re Marriage of Jones, supra, at 421 ("disability pay is not a form of deferred compensation for past services").

3/ Luna v. Luna, supra, at 62; In re Marriage of Jones, supra, at 421 (disability compensation is "for the loss of earnings resulting from (the veteran's) compelled premature military retirement").

4/ Luna v. Luna, supra, at 62; In re Marriage of Jones, supra, at 421, 423, 425 (disability compensation is to compensate the disabled veteran for his "diminished ability to compete in the civilian job market")

From the foregoing analysis, two conclusions seem clear. First. The purposes of disability compensation sharply differ from the purposes of longevity retirement pay. Disability compensation relates solely to the disability and the resulting impairment. Second. Disability compensation is not for the "same period of service" as longevity retired pay but, instead, is for the disability itself.

The Fleet Reserve Association believes there is no rational basis for the discriminating forfeiture of military retired pay by a military retiree to receive veterans service-connected disability compensation.

Statistics from the Veterans Administration reveal that as of September 1987, there were 429,776 military retirees with service-connected disabilities. A chart giving the number of retirees and their percentage of disability follows.

DISABILITY COMPENSATION
SPECIAL LAWS BY COMBINED DEGREE OF IMPAIRMENT
GRAND TOTAL AS OF SEPTEMBER 1987

			COMBINED DEGREE								
0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%	OTHER
1,555	111,945	68,825	61,925	48,343	35,005	31,641	20,850	13,549	9,478	39,089	1

Please note that of the 429,776 recipients, 182,325 military retirees, over 42 percent, have VA rated disabilities of 20 percent or less. For these military careerists, their service-connected disability could not even be qualified or compensated for under the provisions of the military disability retirement law. Is the impairment of earning capacity for a service-connected disabled veteran any the less severe because the veteran is also a military careerist? We think not. The Veterans Administration's statistics reveal that as of September 1987, the 429,776 military retirees collectively received a total of $195,884,603 a month in veterans disability compensation.

THE FEDERAL GOVERNMENT'S RATIONALE

The Federal government's rationale we are told is based on the argument that a person should not be compensated twice by the government for the same period of "service." The FRA contends that "service" is not the basic criterion in this issue, service-connected disability and the degree of compensation for the impairment of earning capacity are the criteria! A veteran does not receive VA disability compensation because he was in "service", but because he was injured in service and the injury has impaired his earning capacity to a certain degree!

Proof of this is demonstrated in the fact that a military retiree, retired for length of service and employed as a federal civil servant must waive an equal portion of his military retired pay to receive veterans disability compensation. However, if the military retiree subsequently retires from federal service, waives his military retired pay and combines his total federal service for the purpose of retiring under the provisions of 5 USC Sect. 8332 (C)(2)(1982), he may receive his veterans service-connected disability compensation without the forfeiture of a single dollar of his federal retirement!

Yesterday, as a military retiree he had to waive a portion of his federal retired pay, today, as a civilian federal retiree he does not. The decision in the federal court case of Absher v. United States not withstanding, we believe this condition smacks of discrimination!

The U.S. Court of Appeals for the Federal Circuit on its opinion in the appeal of the court suit Absher v. United States, Appeal No. 86-885 said, "The stated congressional purpose was to save money, now estimated by the government at more than two billion dollars a year...It is hard to imagine a more rational basis for congressional action than fiscal restraint."

We appreciate the cost concurrent receipt would entail. However, we do not believe the desire to save the government money is justifiable grounds for denying one group of citizens their rightfully earned entitlements when another group receives the same entitlement without penalty.

We are informed there are approximately 28 million veterans in the United States today. Each one has been exposed to the vicissitudes of military service. Each one had the opportunity to elect a military career. For various personal reasons the vast majority elected to return to civilian pursuits. In fact, only one enlisted person of every ten who serves in our armed forces continues military service past the initial obligation and chooses to pursue a military career. Only one in ten elect to endure the hardships and vicissitudes of a military career and yet, when the time comes for that person to reap the earned benefits of a military career many civilians speak and act as through the rightful receipt of the careerist's militarily earned retirement and entitlements are some form of government largess or social aid.

The Government is not a bit bashful assuring that a military careerist is on call 24 hours a day, 365 days every year of his military service! Therefore, the Government should not be hesitant to justly compensate the military careerist for his service and any service-connected disability he incurs while performing that service.

Mr. Chairman, if we are not going to compensate military retirees for their service-connected disabilities without penalty in the same manner that we compensate other veterans, then we should establish a new system that compensates both groups of veterans equitably. A system should be established which cannot be perceived as having a military retiree in effect, fund his own veterans disability compensation.

FRA'S POSITION ON S.563

The Fleet Reserve Association has always endeavored to be truly pragmatic in achieving its legislative goals. In striving for full equity in this matter we recognize and acknowledge the budget constraints we must work within. Therefore, we applaud U.S. Senator Matsunaga's "Inverse Ratio" bill, S.563, which lessens the fiscal burden of the complete elimination of the offset. We recognize S.563 as Senator Matsunaga intended it, a compromise resolution of this perplexing inequity.

It is in this vein that we state that although we sincerely believe the only true resolution to the present inequitable status of concurrent receipt is the complete receipt of both military retired pay and veterans disability compensation, if in the wisdom of this Committee and the U.S. Congress only the provisions of S.563 can be enacted at this time, the Shipmates of the Fleet Reserve Association accept this as an interim solution until such time as the national budget deficit is resolved.

CONCLUSION

Mr. Chairman, we appreciate this opportunity to present our views in this democratic forum. It is the assurance that our views are always welcome and receive serious consideration that motivates us to serve a major portion of our adult life in our nation's armed forces to defend our freedoms.

We thank this Committee for its constant vigilance in veterans' affairs in today's era of demanding and challenging budgetary restraints. You have been consistent in meeting the needs of veterans. We recognize your endeavors in our behalf and we warmly applaud and appreciate your achievements. This Committee and its staff has our admiration and our thanks. This concludes our statement, Mr. Chairman.

TESTIMONY OF OLIVER E. MEADOWS
BEFORE THE
SENATE VETERANS AFFAIRS COMMITTEE
June 9, 1989

Mr. Chairman, I appreciate the opportunity to present my views on the recommendations of the Commission To Assess Veterans' Education Policy. As you know, I serve as the Chairman of the Secretary's Educational Assistance Advisory Committee. By virtue of that position, Public Law 99-576 made me a member of the Commission. It was indeed a pleasure to work with the members of the Commission. Also, I would like to express my appreciation to the members of the Advisory Committee for all the work they did in reviewing the recommendations. I do want to stress that this testimony represents my own personal views on the various issues.

The most recent and perhaps final meeting of the Commission was held on May 22, 1989. I do not want to take up the Committee's valuable time to comment on each of the issues discussed. However, Mr. Chairman, there are some specific issues which I would like to address and provide you with my personal views. One of the recommendations of the Commission was that the education chapters of title 38 should be rewritten. It is my view that these chapters of title 38 definitely should be rewritten. I understand that this would be a major undertaking and would consume many staff hours. However, if the end result would be a document that states the law in clear, unambiguous terms, it would be well worth the investment of time and effort.

One area of program administration that has gotten thoroughly complex and complicated, too much so, has been course measurement. However, before I arrive at any definitive position, I want to wait to see the results of VA's study on the subject.

A somewhat controversial recommendation of the Commission was to abolish the limit on the number of changes of program. I have thought long and hard about this issue, and in the final analysis, I endorse the Commission's view that we simply do away with these limits. I understand VA's viewpoint that having limits on changes is a necessary safeguard against fraud and abuse. However, on balance, the current restrictions on program changes serve as an unnecessary burden on veterans.

Mr. Chairman, there was one other issue discussed during the latest Commission meeting which I believe should be brought to the attention of the Committee. I am referring to the enactment of Public Law 100-503, the Computer Matching and Privacy Act of 1988. The Act will have a significant impact on the education benefit programs administered by the Veterans Benefits Administration (VBA) under chapters 30, 32, and 106. All of these benefit programs rely on computer data received from the Department of Defense in order to determine eligibility to payment and rate of payment. Under the Act, the programs are now considered to be matching programs.

Because the benefit delivery systems in these programs were developed with computer matching being a key element, the requirements of the Act can be expected to have a very negative effect on timeliness of processing, productivity, and cost of administering the programs. I understand that implementation of the Act will result in a substantial increase in the level of overpayments and administrative costs. This is a terrible situation, especially in light of the budget strains that VA is currently facing.

It is my view that benefit programs administered by VBA should be exempted from the provisions of this law.

Finally, Mr. Chairman, you asked for my views on the proposed rate increases for chapter 31 and chapter 35 trainees contained in S. 13. I would favor an increase in education benefit payments for these worthy individuals. They certainly need one since the payment rates have not been increased since 1984. Since that time, I know that school costs have gone up significantly. Considering these factors, I would have to say that a rate increase is overdue.

That concludes my statement, Mr. Chairman.

NATIONAL ASSOCIATION FOR UNIFORMED SERVICES
SOCIETY OF MILITARY WIDOWS
5535 HEMPSTEAD WAY
SPRINGFIELD, VIRGINIA 22151-4094
(703) 750-1342
Fax No. (703) 354-4380
"The Servicemember's Voice in Government"
Established 1968

Statement of

Charles C. Partridge

Legislative Counsel

The National Association for Uniformed Services

Before the

Committee on Veterans' Affairs

U.S. Senate

June 9, 1988

Mr. Chairman and members of the committee, I appreciate the opportunity to present the views of the National Association for Uniformed Services and the Society of Military Widows to this distinguished panel.

The National Association for Uniformed Services and the Society of Military Widows are unique in that we represent all grades and ranks of uniformed services personnel and their spouses and widow(er)s. Our membership includes active, retired, reserve and National Guard personnel, disabled and other veterans of all seven uniformed services: Army, Navy, Air Force, Marines, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. Our Society of Military Widows is an active group of women who were married to uniformed services personnel of all grades and ranks and represents a broad spectrum of military society.

We are grateful for this committee's longstanding commitment to our nation's veterans, their survivors and other family members. There are several issues which the committee is considering today that are of great interest to our members.

Cost of Living Adjustment:

S.13, The Veterans Benefits and Health Care Act of 1989, would provide for a cost-of-living-adjustment (COLA) for VA disability and dependency and indemnity compensation (DIC) for survivors, provides increases for other allowances and contains other program improvements which we support.

The COLA is the bedrock benefit for veterans and their survivors. To maintain its value in the face of inflation is essential and we support the committee's initiative to ensure that veterans and survivor benefits are COLA protected. COLAs each year protect, but do not fully offset the ravages of inflation. Earlier proposals by the Administration to freeze COLAs for retired veterans, then to limit future COLAs to one percent below the Consumer Price Index thereafter would have a serious impact on retired disabled veterans and their widow(er)s since any increase in disability compensation paid by the VA would cause an offset in retired pay paid by the Defense Department. The result would be no COLA protection for veterans who waive retired pay in order to receive VA disability compensation. We are grateful for this committee's interest and support for COLAS paid by the Department of Veterans Affairs.

Concurrent Receipt of Longevity Retired Pay and VA Disability Compensation:

S.190 would permit certain service connected disabled veterans who are retired to receive compensation concurrently with retired pay, without reduction from either and would correct a longstanding inequity. The amended S.190, which is before this committee, would reduce longevity retired pay in inverse proportion to the disability compensation received. That is, an individual with a 90% disability would have his longevity retired pay reduced by an amount equal to 10% of the disability payment.

The military professional is the only category of government servant or public or private employee who is required to forfeit dollar for dollar his earned retired pay for each dollar the Veterans' Administration pays to compensate him for a service connected disability. Eliminating the offset entirely is our objective and we support the amendment before the committee today as a major step in that direction.

The argument most frequently made against paying a disabled retired veteran both longevity retired pay and disability compensation is that both are based on the same period of service and therefore, as a matter of principle, one or the other should not be paid.

In the view of our members, the "same period of service" principle is not only invalid but has long been breached. Any civil servant who receives VA disability compensation as a result of injuries or disease incurred during military service may also count that military service toward civil service longevity retirement while concurrently receiving VA compensation as a result of injuries or disease which occurred during the same period of military service.

Further, the proposition that VA compensation and military retired pay are based on the same period of service does not meet the test of logic. While non-disability retired pay is based on length of time served and grade attained, disability compensation is based on one or more events or conditions such as a wound, injury or disease.

For example, some soldiers in Vietnam were infected with a parasite which slowly destroys the eyesight. There is medical treatment which controls the condition and temporarily stops the parasite; however, because of side effects, intake of the medicine must be limited. Thus, the medicine is stopped until the parasite becomes active again, then is resumed. The soldier may remain on active duty so long as his eyesight meets the minimum standard. At some point, however, he will probably lose the sight in one or both eyes. To require that he give up military retired pay to receive VA compensation for his loss of vision because both were the result of the same period of service is not logical nor equitable. His retirement eligibility is the result of the period of service. The loss of vision is the result of the disease contracted while in the service. In the interest of equity the military retiree should be compensated for both length of service and the disability as is done for veterans who choose careers other than military service.

Health and Hospitalization:

We support the provisions of Sec.112 of S.13 which includes extending the period of hospitalization for veterans with no dependents before pension benefits are cut off. The extension of the current cut-off period of 3 months to 8 months and authority for the Secretary of Veterans' Affairs to grant another 4 month extension will alleviate financial hardships which these veterans face.

Sharing of Medical Facilities, Equipment and Information:

Initiatives to expand and improve VA and Defense Department as well as other medical resource sharing, agreements are urgently needed and welcomed. Critical to the success of these efforts is direct reimbursement between the providing agency and the agency using the resources. A near-fatal weakness of the DOD/VA sharing agreements is that funds are paid into the U.S. Treasury rather than directly to the medical facility providing the service. Thus, furnishing the service represents another expense for the provider rather than an opportunity to obtain the necessary reimbursement so that services can be continued and improved using the funds received.

Another major problem involves the Department of Veterans' Affairs indirect subsidy to the Health Care Financing Administration. Every visit to a VA health care facility by a disabled veteran eligible for Medicare or Medicaid represents a VA subsidy to the Health Care Financing Administration because that is one less hospital admission or out patient visit paid for by the Medicare/Medicaid program. It is time to establish a system of direct reimbursement by the HCFA to the VA medical facility delivering the treatment. Veterans are being turned away in record numbers and increasingly restrictive conditions are being set for treatment at VA medical centers. A direct reimbursement system could in the long term result in savings for the HCFA and increase availability of VA hospital care for veterans.

Veterans' Education Assistance.

We support making Montgomery G.I. Bill benefits more readily available to individuals who have not completed their high school diploma requirements. Therefore, we support the provision that allows the Secretary of the Military Department concerned to set the criteria defining alternate secondary school credentials. We also support the work-study provision of S.1003 and believe the proposed changes will help eliminate abuses without limiting veterans access to the benefit.

NAUS is in general agreement as well with the provisions of the Veteran's Education Policy Improvements Act. In particular, we support the provisions to authorize work study wages at the national or state minimum wage level whichever is higher, as well as permitting participation by certain dependents and survivors of disabled veterans and members of the selected reserve.

Mr. Chairman, NAUS/SMW appreciates the opportunity to present its views on these subjects and the interest displayed by this committee on matters of importance to this nation's veterans, their widow(er)s and other survivors.

NATIONAL HOME STUDY COUNCIL
1601-18th STREET, N.W. • WASHINGTON, D. C. 20009 • 202-234-5100

Office of the Executive Director

June 2, 1989

Honorable Alan Cranston, Chairman
Senate Committee on Veterans' Affairs
Russell Senate Office Building, Room 414
Washington, D.C. 20510-6375

Re: S-1092

Dear Senator Cranston:

This is written in support of Senate Bill 1092 dealing with the implementation of certain recommendations offered by the Commission to Assess Veterans' Education Policy (CVEP), appointed pursuant to PL-99-575.

As an active member of CVEP and as the Executive Director of a nationally recognized educational association whose institutional members have served over 1.2 million veterans in the past two decades, I wholeheartedly endorse and support the various provisions of S-1092 as introduced.

I sincerely believe that the measures proposed in S-1092 are in the best interests of our nation's veterans, particularly as they correct some past inequities and oversights of previous legislation. Our country's veterans deserve the protection and benefits extended by S-1092. I urge the passage of this worthy Bill.

Thank you for your continued support of veterans' issues.

Sincerely yours,

W.A. Fowler

William A. Fowler

/ps

The nationally recognized professional association of home study schools—a nonprofit public service organization.

Statement of

Major General Evan L. Hultman, AUS (Ret.)

Executive Director

Reserve Officers Association of the United States

Before the

Senate Veterans Affairs Committee

Concerning

Veterans' Education and Benefits Legislation

June 9, 1989

Mr. Chairman and Members of the Committee:

Thank you for providing this opportunity to represent the many men and women from all of the uniformed services who are members of the Reserve Officers Association (ROA).

ROA would also like to thank this Committee for the actions that it has taken in the past in providing educational opportunities for our military personnel, both active and Reserve, and we appreciate having the opportunity today to comment on proposed legislative changes affecting veterans' education and benefits.

As you know, ROA worked with many of you to make the new GI Bill legislation a reality. We supported the test program several years ago and then worked with you in support of legislation to make the Montgomery GI Bill permanent legislation.

From all reports that the Reserve Officers Association has received the Montgomery GI Bill is having a positive impact on the quality of recruits entering both the active and Reserve forces. As we have testified in the past, certain minor shortcomings are becoming evident which deserve further legislative attention. Thus, at the ROA annual national convention in 1987, the membership endorsed the need for certain improvements. A copy of that resolution (87-22), is attached to my testimony and we are glad to note that the death benefit provision was enacted last year. However, the Reserve Officers Association, in Resolution 87-22, also supports a legislative change which would permit Reservists to use the Montgomery GI

Bill for post graduate training. We believe this would be an incentive to attract and retain college graduates into Reserve programs. In addition, ROA is on the record supporting the recognition of on the job training, correspondence schools, and apprenticeships, as authorized programs under the Montgomery GI Bill. This aspect of ROA's resolution addresses the fact that there are many skilled, technically oriented positions within the Reserve where such training courses could be utilized to raise the overall effectiveness of the Reserve Components.

Another resolution ROA has adopted pertains directly to a second matter you will be considering today. This resolution, #86-33, urges the enactment of legislation which would provide for concurrent payment of military retirement and service connected V.A. disability compensation.

Military retirees are the only group of retired federal employees who must waive part of their retirement pay in order to receive V.A. disability compensation. If a veteran refuses to give up his earned military retirement pay on a dollar for dollar basis equivalent to his V.A. award, he loses his V.A. disability compensation. The same penalty does not apply if the veteran is a federal civil service retiree and uses his military service in the computation of his civil service retired pay.

The Reserve Officers Association believes that this 100% statutory offset, which is applied solely to military retirees, is an injustice to those veterans who have sustained a service connected disability during their military career. Because of this injustice, the Reserve Officers Association has adopted the resolution referred to above to correct this inequity. A copy of our mandate is enclosed.

We realize that there are several other issues which the Committee will address in the bills before it today. However, the Reserve Officers Association has not taken an official position on the other provisions you are considering.

Thank you for the opportunity to present ROA's views. Your continued support of the men and women who are wearing and who have worn the uniform of our country, both active and Reserve, is deeply appreciated.

Resolution No. 86-33
(Veterans)

RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Concurrent Receipt of VA Compensation and Earned Retired Pay

WHEREAS, there is a basic inequity in the field of military retired pay because of the continuing practice of deducting VA compensation from such retired pay; and

WHEREAS, non-military federal retirees may receive their VA compensation in full without deduction from other income and in justice, it would seem that those who have given a large measure of their lives to the military service should receive the same consideration and treatment.

NOW, THEREFORE, BE IT RESOLVED that the Reserve Officers Association of the United States, chartered by Congress, urge that steps be taken to provide legislation that will correct this inequity to the end that VA compensation and military earned retired pay be paid concurrently where both have been independently justified by the service and the disabilities of the individual military retiree.

This renews expiring Resolution No. 83-35--

Attest: Evan L. Hultman
Evan L. Hultman
Major General, AUS (Ret.)
Executive Director

Resolution No. 87-22
(Military Compensation/Benefits)

RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

The New GI Bill

WHEREAS, the FY85 Defense Authorization Act (PL98-525) provided for establishment of a new educational assistance test program effective through 30 June 1988 for Active and Reserve Components; and

WHEREAS, the President has signed into law HR 1085 (PL 100-48) which makes permanent the New GI Bill entitlement; and

WHEREAS, this permanent legislation does not permit Reservists to use the GI Bill for post graduate training which would be an incentive to attract and retain college graduates into Reserve programs; and

WHEREAS, the New GI Bill legislation contains no provisions permitting a refund of the member's cost even if the service member, due to death or other cogent reasons, is unable to use the benefit (applicable only to the Active Component); and

WHEREAS, on-the-job training, correspondence schools, and apprenticeships are not authorized training courses under the New GI Bill;

NOW, THEREFORE, BE IT RESOLVED, that the Reserve Officers Association of the United States, chartered by Congress, urge the Congress to make such legislative improvements as are required to permit the New GI Bill to be used by Reservists for post-graduate educational purposes, to permit the refund of the contribution in the event of death or other qualifying reasons, and to recognize on-the-job training, correspondence schools, and apprenticeships as authorized programs under the New GI Bill.

(This supersedes Resolution No. 86-6)

Adopted by the National Convention
4 July 1987

Attest: Evan L. Hultman
Evan L. Hultman
Major General, AUS (Ret.)
Executive Director

Southern California Veterans Services Council, Inc.

P.O. Box 3175
Will Rogers Station
Santa Monica, CA 90403
(213) 671-8749

June 2, 1989

ATTENTION: Senate Veteran's Affairs Committee

SUBJECT: Support for Assistant Secretary of Minority Veterans Affairs in the Veterans Administration

After years of sacrifice, America's heroes have finally received acknowledgement as the U.S. government recently determined that representation for American veterans was worthy of a cabinet post. All veterans must feel some happiness about this decision and the appointment of Edward J. Derwinski as Secretary of Veterans Affairs.

However, a continuing and ill-addressed problem remains for minority veterans, who despite their valiant and patriotic contributions in all of America's war efforts remain unemployed and/or under-employed and now represents the largest segment of homeless veterans in America's urban communities.

The time is now, that an Assistant Secretary of Minority Veterans Affairs become a permanent position within the Department of Veterans Affairs. This seems little to ask, in view of facts that show affirmative action laws have been ignored by American Industries, and even the giant Aerospace-Defense contractors have minimal minorities employed at all levels of their many positions.

Let us also be cognizant of the veterans Job Training Partnership Act, which again is a government effort, and still somehow minority veterans remain with the highest unemployment rate and the larger segment of the homeless population, which is reflected to be at least 1/3 of the entire homeless people in America.

Of course, many will say that the homeless veterans population is comprised of mentally ill veterans, drug addicts and alcoholics. The Vietnam veteran will be described as suffering Post Traumatic Stress Syndrome along with drugs and alcohol abuse.

Some of the above have elements of truth, however, it is not the basic problem of those unemployed, under-employed and homeless, unfortunately, the same old story for minorities still exist in this affluent democracy, under-educated and the belief that minorities lack the mental facility to learn and perform, with the exception of war. For America's minorities, second class citizenship is still the order of the day.

As a black female veteran, operating a non-profit computer skills training program, re-adjustment counseling and job placement assistance, for over four years, our program serves all veterans and minority veterans are at 70% of each 8 to 12 week class. Our school has an 87% job placement rate and minority veterans are trained along with non-minorities, many who have Bachelor and Master Degrees and at completion of training have the same competence, new self-esteem and confidence and are successfully obtaining and holding meaningful employment and paying taxes as other non-minority citizens.

Enough on our efforts, the Southern California Veterans Services Council, Inc., but to the issue regarding an Assistant Secretary of Minority Veterans Affairs. Without question or doubt, this position would allow representatives of minority veterans to present problems and issues that affect minority veterans, so that the Secretary of Veterans Affairs, Department of Veterans Affairs and the Department of Labor can responsibly develop remedies to assist the minority veterans in reaching full citizenship with dignity.

Some suggestions:

1. Institute a remedial and/or post-secondary education program For veterans who obtained GED's while in service.
2. Support vocational and educational training programs for veterans with demand occupations, that offer them ongoing employment in the 20th Century.
3. Utilize veteran land and property for housing and training for homeless veterans. Stop using band-aids and offer these homeless veterans the needed skills to compete equally in the job market.
4. Add training programs to the vet centers rap sessions, counseling, job service and hand-holding.
5. Improve paper processing for minority veterans, who have earned entitlement.
6. For minority and all veterans who have suffered illnesses from the Vietnam war experience, such as Agent-Orange exposure. Ensure the Veterans Administration not only pay valid compensation, but implement ongoing medical treatment and services to these men and their families.

7. Most important, see that these services are offered to our minority veterans with dignity.

The aforementioned is simply some efforts that can alleviate the plight of minority veterans and is not meant to be a handout, but a helping hand to those veterans who have tried, are trying and those who have given up, but as minority veterans did not turn their back on their country's call to fight in a foreign land, and spent their youth in a war, to return home to America and 20 years later, have become rejects in our society. All veterans are equal as veterans, but all are not equal as citizens and this government has a responsibility to aid them now, not tomorrow to take their rightful place in this democracy.

I urge each congressman, and senator to endorse our request for an Assistant Secretary of Minority Veterans Affairs, while these minority veterans ranging in ages 38 to 46 years still have an opportunity to become constructive citizens and can join America's economic mainstream as tax-paying wage earners, heads of families and enjoy personal self-esteem and dignity as Americans.

I thank you and trust God to move you all in a responsible decision in support of Assistant Secretary of Minority Veterans Affairs, and pray that maybe in the near future such a position will not be needed in our government.

Sincerely,

Arlene L. Williams

Arlene L. Williams
President, SCVSC, Inc.

Vietnam Veterans of America, Inc
2001 S St., NW
Suite 700
Washington, DC 20009-1125

(202) 332-2700

STATEMENT OF

VIETNAM VETERANS OF AMERICA, INC.

Presented By

PAUL S. EGAN
LEGISLATIVE DIRECTOR

Before The

SENATE VETERANS AFFAIRS COMMITTEE

On

BENEFITS LEGISLATION

JUNE 9, 1989

★ A not-for-profit national veterans service organization ★

Mr. Chairman and members of the committee, the Vietnam Veterans of America, Inc. (VVA) appreciates this opportunity to present its views on various of the issues and legislation under consideration at today's hearing. Many of the matters under discussion concern subjects on which the VVA has no current position to express. That being so, our statement will be limited to those issues we regard as relevant.

Disability and DIC COLA's

Section 101 of S. 13 would award a cost-of-living adjustment (COLA) effective December 1, 1989 which would amount to the same adjustment as that applied to Social Security benefits on the same date. We note there is currently a difference of opinion between the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) as to the projected rate of increase in the Consumer Price Index (CPI) which could jeopardize the precise amount of COLA increase. The current OMB estimates would warrant a 3.6 percent COLA while the CBO estimates would warrant a 4.9 percent COLA.

It is indeed prudent to leave the precise percentage of COLA increase out of the legislation by relying on a mechanism for assessing an increase more reflective of actual inflation than the rate projected at this point in the year. However, fiscal constraints being what they are, there is sound reason to express concern that disabled veterans and survivors may be at risk of being short-changed later in the year if the OMB-CBO disagreement persists and if the appropriations needed to afford a higher COLA threaten to exceed Congressionally agreed upon budgetary crosswalk figures. With this in mind, we caution this Committee to take care that veterans who rely on disability compensation or survivor benefits be protected. If, after all is said and done, veterans are penalized just because their COLA's depended on the figures used to upwardly adjust Social Security benefits, the trust of our disabled veterans will have been just as violated as it would have been if the committee unilaterally approved a lower COLA than that applied to Social Security.

Education Program Adjustments

Sections 102 and 103 of S. 13 would uniformly award upward benefits adjustments of 13.8 percent for vocational rehabilitation subsistence allowance benefits prescribed under Chapter 31 of Title 38 and for educational assistance allowances for dependents and survivors as prescribed under Chapter 35 of Title 38. As the Chairman noted in his comments upon introduction of S. 13, the Bureau of Labor Statistics (BLS) projects that a 13.8 percent increase in benefits for subsistence allowances under vocational rehabilitation is appropriate given the inflation rate since 1984, the last time an upward adjustment was awarded.

On the other hand, the inflation rate since 1984 in tuition, fees, room, board and associated educational expenses paid by survivors and dependents relying on Chapter 35 of Title 38 has been far greater than 13.8 percent according to the Department of Education. For those using public educational institutions, the rate of increase in those costs since 1984 would justify an 18 percent upward adjustment and for those using private educational institutions the inflation rate warrants a 28 percent upward adjustment.

Moreover, it is somewhat ironic that this hearing is in part designed to review the public policy implications of educational programs operated by the Department of Veterans Affairs (DVA), yet the Committee has apparently eschewed the opportunity to explore the relevance of benefit levels to the actual costs of education. It may be properly conceded that the federal government's educational programs, whether for veterans or non-veterans, have no obligation to afford benefit levels sufficient to accommodate the costs of the very finest and most expensive schools in the nation. On the other hand, it must also be conceded that the best formulated educational policies -- again irrespective of one's status as a veteran -- are all but meaningless without benefit levels sufficient to meet the average costs of public educational institutions.

The VVA supports the proposed 13.8 percent increase in each of the programs available under Chapters 31 and 35 of, Title 38, but there can be no mistaking that the long history of inadequate and untimely upward adjustments in benefits not only under Chapters 31 and 35 but also Chapter 34 have played a significant role in perpetuating unemployment and underemployment within the Vietnam era generation. However unfortunate the consequences of inadequate educational benefits available to this generation much earlier, the consequences of this shortsightedness can be expected to linger well into the future and create further demands on federal resources for additional remedial programs, particularly employment and training programs.

Vietnam Era GI Bill

In this connection, and for want of a better explanation, there seems to have been a bit too much emphasis in the veterans educational program arena on the military needs of recruitment and retention. This emphasis seems to have encouraged a corresponding deemphasis on what the needs of veterans are following military service. For example, the Montgomery GI Bill was enacted amid great concerns about defense needs and was heralded as holding great promise for the veteran following military service. As sympathies for the needs of the military surged, culminating in enactment of a peacetime educational program, concerns for those Vietnam era veterans having made a career of the military and whose continued service was once considered critical to military preparedness seem to have been abandoned.

Unless something dramatic occurs very soon, these veterans will have given up by default their entitlement to the Vietnam era GI Bill for nothing. Unless the termination date of this particular educational program is removed, the Vietnam era GI Bill will have been allowed to vanish with little fanfare. In our view, this would be a tragic break in faith with the very same veterans who were most heavily relied upon after the Vietnam Conflict to assure the military's readiness. It is for this reason that we strongly urge favorable committee consideration of S.945 introduced by Senator McCain. Similar legislation has been introduced in the House by Representative Bilirakis, HR.2114, and we hope to press the issue in the other body as well.

Another aspect of the Department's educational policies that needs to be addressed by this Committee is the DVA's failure to act on a federal district court order issued on December 22, 1988. The order invalidated certain DVA regulations pertaining to the Delimiting Date Extension program that was originally mandated in 1981 in P.L. 97-72. The purpose of the program was to enable educationally disadvantaged Vietnam veterans who were underemployed and who had some remaining entitlement under Chapter 34 to use that entitlement beyond their 10-year delimiting date.

After the DVA implemented the program very restrictively, Congress saw fit in P.L. 97-306 to dictate to the DVA that it liberalize its regulations and provide an additional one-year application period. Despite the second Congressional action on this program, the DVA persisted in restrictively construing it and seriously limiting the numbers of veterans who could successfully obtain the extension.

Again, for the third time, Congress saw fit to correct the DVA's misunderstanding of the purposes of the program and in August 1983, passed P.L. 98-77.

In July 1983, two veterans from Ohio filed a lawsuit to hold invalid the DVA interpretation of the Act. Finally, in December 1988, the court ruled that the DVA regulations were invalid and ordered that the December 1984 deadline for the program be extended to December 31, 1989. Pacheo v. VA, No. C83-3098 (N. D. Ohio Dec. 22, 1988).

Despite that court order and rapidly approaching deadline, the DVA has taken no steps to notify the affected Vietnam veterans or in any other fashion implement the order. We respectfully urge this Committee to question the DVA closely on its continuing failure to implement the Delimiting Date Extension program. We can assure this Committee that the attorneys for the veterans (who work with the Legal Aid Society in Cleveland, Ohio) stand ready to work with the DVA to finally make this program a meaningful one. We would hope that Secretary Derwinski's decision not to appeal the federal district court order invalidating the DVA's Agent Orange rules indicates a positive shift in attitude that will carry over into this area as well. Perhaps the Committee should also consider an additional period of time within which the original Targeted Delimiting Date Extension Act could be used by those veterans having been denied the opportunity to take advantage of the program as a result of DVA recalcitrance.

Clothing Allowance

Section 111 of S. 13 would expand the clothing allowance for disabled veterans in order to accommodate veterans whose medications soil or otherwise destroy their clothing. It is difficult to imagine why this legislation was unable to prevail in negotiations with the House last year and we most certainly support a repeated effort on this issue again this year.

Hospitalization and Needs Based Pension

Section 112 of S. 13 would extend from three months to eight months the period of hospitalization after which needs-based pension benefits would be reduced. This section would also provide that after eight months of hospitalization the reduction in pension benefits would be limited to a floor level of $105.00 rather than the current floor of $60.00. In our view, the thrust of this initiative is well intended. However, we would prefer to eliminate any reduction in benefits regardless of length of hospitalization.

This proposal would not apply to periods of hospitalization in nursing homes because it is assumed that patients at these facilities are unlikely to be released and are therefore less likely to be burdened with cash shortages for living expenses such as rent. This assumption unfortunately fails to accommodate the perhaps exceptional case in which a nursing home patient is released. To properly take the problems of the exceptional patient into account, we strongly recommend that the DVA be given either statutory authority or more specific statutory guidance in handling the award of needs-based pension benefits for these exceptional nursing home patients.

VRA Extension

Section 113 of S. 13 provides a targeted two year extension of the Veterans Readjustment Appointment authority program (VRA). This program is currently scheduled to expire at the end of the current calendar year. In extending this program it is noted in the statement on introduction of the bill that the latest Department of Labor (DoL) figures show unemployment among Vietnam era veterans to be presumably lower than among non-veterans of similar age. This apparently is the justification for withholding a full extension as against a targeted extension in the legislation for disabled and theatre veterans.

What the employment figures fail to reveal is the level of underemployment among Vietnam era veterans who are counted as employed by the Department of Labor. It is unknown what this particular level might be because these statistics are no longer collected. Similarly, the DoL no longer counts individuals who have dropped out of the labor force altogether. If these figures were available, we strongly believe the employment picture for veterans would appear far less bright.

Moreover, the VRA has had a checkered history and this is partly due to the design of the program. While it holds out an opportunity to secure non-competitive employment with the federal government up to a GS-9 level, the 14 year education restriction for non-disabled Vietnam era veterans condemns the program's non-disabled participants to low paying wage grade positions. This is somewhat ironic given the testimony we have heard from agency after agency who bemoan the vacancies in skilled positions owing to shortages of qualified personnel. This is also ironic because so many agencies other than the DVA and DoD (the two overwhelmingly largest users of this voluntary program) repeatedly claim that their respective agency missions skew their available positions in favor of the technically skilled.

We believe the program should be completely extended rather than being extended with a narrowed scope. To the extent that theatre veterans would continue to avail themselves of the program, the extension properly recognizes a specific population of veterans who have in the past and continue to need added attention. To the extent that this population of veterans would continue to be subject to the 14 year educational limitation, the added attention is insufficient.

The subject of extending the VRA offers an opportunity to open a dialogue on overall veterans employment policy that has been in need of reexamination for quite some time. Most of the employment programs developed for veterans have -- whether intended as such or not -- been implemented in a way that has focused too much attention on the structurally unemployed. The population of structurally unemployed veterans is certainly in need of attention but focusing all the attention, most of the resources and the lion's share of federal veterans employment programs on this population has had the effect of ignoring those veterans who could both best utilize assistance and most benefit an economy undergoing a watershed transition. The veterans referred to here are the underemployed, job ready and trainable veterans whose jobs have been displaced by the development of a service economy and whose middle income positions have completely disappeared from the economic landscape.

In our view, this is a population of veterans having, for the most part, demonstrated their cognitive skills in having used the GI Bill to at least some extent. Typically these are individuals who accepted positions in the heavy industrial and manufacturing sectors, positions for which they were exceedingly overqualified by contrast with their similarly aged, similarly situated non-veteran peers. These are the individuals who accepted factory-type jobs at middle income wages rather than compete with other segments of the "baby boom" generation who were unfettered by military service. If, in our judgement, these veterans are ignored in our overall national employment policy-making considerations, the economy will have missed an opportunity to take advantage of a significant resource, a human resource that is not only prepared for retraining but one which could very well serve as a buffer against continued export of American jobs as the nation begins to lay plans for preparing the next generation of American workers for the increasingly technical demands of a completely rearranged industrial environment.

The truth in this discussion is revealed rather dramatically when it is understood that most displaced workers who are veterans used the GI Bill for some period of time. Their concentration in the now collapsed heavy industrial and manufacturing sectors is rather lucidly revealed by noting that veterans represent only about 12-13 percent of the total labor force but constitute between 22 and 26 percent of all dislocated workers.

The subject of extending the VRA is relevant in this discussion because this particular program could assist some of these displaced veterans in no small way if it were simply extended outright and if the 14 year education limitation were removed in the process. Similarly, other veterans employment programs ought also to be reconfigured so that job ready, trainable but underemployed veterans can be permitted to make the kind of contribution to the overall economy that this economy desperately needs.

S. 564

This legislation, designed to establish an Assistant Secretary within the Department of Veterans Affairs for minorities is well founded and deserves serious consideration. Adding such a new Assistant Secretary to the political leadership of the Department transcends any possible charges by potential opponents of "tokenism" because the interests of blacks, native Americans, Hispanic Americans and particularly of women have been largely ignored in the past by a predominantly male oriented agency.

While it is true that several steps have been taken in recent years to more fully accommodate the special needs of women within the agency, most especially in the area of health care, the presence of an Assistant Secretary for minority concerns would lend a more permanent assurance that these needs and concerns will continue to be addressed properly. The VVA fully supports this legislation.

Disability Compensation Offset of Military Retirement Benefits

Finally, Mr. Chairman, we are pleased that you have decided to include legislation in today's hearing introduced by Senator Matsunaga, S.563, S.190 and a draft amendment, which to a greater or lesser extent would remove a rather glaring inequity for military retirees who happen to have been disabled during military service even though the disability may not have been adjudicated as such until after the completion of a career in the armed forces. At the outset of our discussion of this matter, however, we must state that our preference is for a complete removal of the offset as prescribed in pending House legislation, HR.303, introduced by Representative Bilirakis.

The problem with this offset is that the two compensation systems--military retirement and veterans' disability compensation--are separated by distinctly different purposes. Military retirement, like any other pension in many respects, is earned in exchange for spending an entire career in the service of a specific activity--in this case military service. The DVA compensation system, like any other disability insurance program in many respects, is designed to offer an income supplement to accommodate lost earning power. Just because one's usefulness to the military is exhausted at a conceivably young age after 20 or 30 years is no reason to penalize military retirees just because they may be able to secure further, perhaps less demanding, employment following military service. Earning capacity is just as impaired whether or not the veteran is a retiree. To allow the offset to continue, in our view, improperly penalizes disabled veterans just because they are employable.

Mr. Chairman, that concludes our statement.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUL 13 1989

Honorable Alan Cranston
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find the Department's responses to questions submitted by you following the Committee's hearing of June 9, 1989, on legislation relating to veterans' education programs.

Sincerely yours,

Edward J. Derwinski

Edward J. Derwinski
Secretary

Enclosure

SENATOR CRANSTON'S QUESTION

Question. Section 7 of my bill, S. 1092, would provide that all education programs administered by VA are authorized to require monthly self-certification by students verifying pursuit of training for both degree and nondegree students, and section 9 of S. 1092 would provide that the effective date of a benefit change based on a change in a student's course load or other change would be the date the change occurred, instead of the end of the month in which the change occurred.

A. Would you please submit for the record an analysis of the extent to which these two provisions, if enacted, could create overpayments or cause delays in the receipt of monthly educational assistance allowances.

Answer. No recent in-depth analysis currently is available to compare certification processing for degree seeking students with nondegree seeking students. A study which is under way is attempting to project the overall effectiveness of requiring monthly certifications for all degree seeking students by comparing students training under chapter 30 (a program with monthly certification requirements) with students training under chapters 32, 34, and 35 (programs with no such requirement). From a timeliness standpoint, the study will also focus on the time it takes VA to issue, receive, and process certifications for payment.

Preliminary results show that monthly certifications do prevent debts. From a limited sample, we found that half of the debts created under chapters 32, 34, and 35 would have been prevented by requiring monthly certifications.

We note that section 7 of S. 1092 authorizes, but does not require, the use of monthly certifications. Thus, if enacted, we would invoke such authority only after first determining that use of monthly certifications would result in an appropriate balance between the competing interests of avoiding overpayments and assuring timely payment of benefits.

The effective date of change provision in section 9 would not create overpayments if coupled with a monthly certification requirement. To enact this provision without such a requirement would create additional debt. However, there has been no analysis to determine the extent to which overpayments would increase.

B. Would you please consult with the National Association of Veterans Program Administrators and the Paralyzed Veterans of America to get their input on this issue?

Answer. We are in the process of securing their input.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

AUG 29 1989

Honorable Alan Cranston
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find a follow-up response to a question submitted by you following the Committee's hearing of June 9, 1989, on legislation relating to veterans' education programs.

Sincerely yours,

Edward J. Derwinski

Edward J. Derwinski

Enclosure

SENATOR CRANSTON'S QUESTION

Question. Section 7 of my bill, S. 1092, would provide that all education programs administered by VA are authorized to require monthly self-certification by students verifying pursuit of training for both degree and nondegree students, and section 9 of S. 1092 would provide that the effective date of a benefit change based on a change in a student's course load or other change would be the date the change occurred, instead of the end of the month in which the change occurred.

B. Would you please consult with the National Association of Veterans Program Administrators and the Paralyzed Veterans of America to get their input on this issue?

Answer. We have secured input from the National Association of Veterans Program Administrators and the Paralyzed Veterans of America. For your information, enclosed are the NAVPA and PVA responses. Please be assured that we are considering this additional information as part of the certification study.

Enclosures

National Association of Veterans Program Administrators

NAVPA

LYNN DENZIN, PRESIDENT

c/o Metropolitan State College
1006 11th Street
Box 16
Denver, Colorado 80204
(303) 556-2983

July 24, 1989

AUG 03 1989

Mr. R. J. Vogel
Chief Benefits Director
Department of Veterans Affairs
810 Vermont Ave., NW
Washington, DC 20420

Dear Mr. Vogel:

I am writing in response to the request from Senator Cranston concerning Sections 7 and 9 of S. 1092.

I have contacted the Board members of NAVPA to share their concerns and problems associated with the self-verification by students. The following reflects the responses I have received. In some instances I have made reference to particular states in order to show the national scope of the problems.

*Non-receipt of Attendance Verification letters: Most states reported a problem with late verification letters, and many with total non-receipt for several months. In Colorado, Arizona, Kansas, Massachusetts, and North Dakota the veterans counselors in the schools have sent specific information of student veterans who did not receive the verification letters for several months, or for entire semesters at a time.

In most of those cases, the student completed a 22-4138 (Statement in Support of Claim) stating that he/she was attending at a continuous rate of enrollment. This appeared to satisfy the processing center; however, in at least one case the VA informed the student that they would accept the 4138 only one time, and following that a verification letter would be required. Since the student was still not receiving the verification letter in order to return it, the school attached an enrollment certification with each 4138 each month.

When checks for these students were received, they were addressed correctly, therefore we must assume that if attendance verifications were being sent, they must also have had the correct address.

*A problem in several states concerned the attendance verification letter reflecting information from a previously attended institution after the student had transferred schools. It took several months after the "Change of Place of Training" had been submitted for the attendance letters to reflect the change. The

Page two

reverse of that problem was also reflected - after changing schools, it often took several months for the attendance verifications to get re-instated. (In the meantime, the students were completing the 4138's.)

*In cases where the student was certified to the VA on the first day of a term - Example: classes begin in January. At the end of February the student received their attendance verification letter. The letter contained reference to January, February, and March. Therefore, the student should have waited until the last day of March to verify their attendance on that letter. When the students brought those to the attention of school officials, they were advised to cross out the reference to March; to verify their attendance for January and February; and to send in the letter. They kept copies of the letter, and at the end of March sent in another copy reflecting verification through March.

Failure to follow the above procedure would have delayed the student's payment from January through at least the third week of April. Student's who are not bringing problems to the attention of their school official are no doubt suffering from this huge delay in payment of benefits. Additionally, although school officials do not mind assisting students with these forms, it does appear to defeat the concept that they are "self" verifications.

*In at least one case we are aware of, the student verified themselves as a full time student, and were paid full time benefits. This even though the school had certified them as a 3/4 time student. When the error was finally realized, the student had a full term of over-payment.

*Even in the most ideal of circumstances, when the student does receive a monthly self verification letter, payment is not received until the third week of the following month; and often beyond that time.

Continuing problems are seen with Chapter 30 students regarding the lack of flow in the information between the Department of Veterans Affairs and the Department of Defense. Verification of eligibility and "kicker" amounts is a serious problem. Timely communications are absolutely necessary for these students to receive the money to which they are entitled.

Within Section 9 of S. 1092 is contained provision that the effective date of a benefit change would be the date the change occurred. We support the reference to reflect the "date the school was aware of the change".

Thank you for the opportunity to address these issues in further detail. We will be happy to supply further information if you require.

Sincerely,

Lynn Denzin

Ms. Lynn Denzin

cc: D. Kehrer

PVA

PARALYZED VETERANS
OF AMERICA
Chartered by the Congress
of the United States

RECEIVED
OFFICE OF DIRECTOR

JUL 1 1 1989

VOCATIONAL REHABILITATION
AND EDUCATION SVC (22)

June 26, 1989

Dr. Dennis R. Wyant, Ed.D., C.R.C.
Director, Vocational Rehabilitation and Education Service
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Dennis,

This is in response to your letter of June 20, 1989, concerning sections 7 and 9 of Senator Cranston's bill, S. 1092. We have been asked to share our views on these provisions with you.

Section 7 of the bill provides the Secretary with the authority to require monthly self-certification of enrollment for all DVA education programs. Currently, the Montgomery GI Bill is the only program which requires such certifications.

As we stated in our testimony before the Committee on June 9, we are concerned about the volume of certifications flowing into regional offices every month and the effect that it will have on the delivery of benefits. The number of such certifications will clearly be significant as every student in every DVA education program will be required to submit one on a monthly basis. Obviously, the chance of an individual certification becoming lost, causing benefits to be withheld, will rise proportionately.

We are well acquainted with the problems associated with NCD "cert" cards. When a certification is not promptly returned or, for a variety of reasons, not promptly processed, the subsequent check will be issued during the course of the next month depending on the schedule of "pay cycles." A veteran is unable to rely on the check arriving at the beginning of the month. As the number of monthly certifications is greatly multiplied by section 7, there will be both increased delays and duplication of work when certifications are resubmitted because a check did not appear on time.

Although we understand that the St. Louis Regional Office is successfully processing monthly certifications for the Montgomery GI Bill, we believe every effort should be made to avoid potential problems which we believe would be inherent in an initiative such as section 7. In summary, we are most concerned that, given the large number of certifications which section 7 requires, the failure of the Department to receive and process a single

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certification from an individual will result in the suspension of the veteran's education benefits. In addition, the unpredictable delivery date of benefit checks due to delays in processing times will cause duplication of work.

Regarding section 9 of S. 1092, we support Senator Cranston's initiative to make the effective date of an educational benefits adjustment correspond to the actual date of change in a student's course load rather than, as under current law, at the end of the month. In the event of an increase in course load, the student will receive additional benefits to help defray the cost of the course. In the case of a reduction in course load, the net result will be "saved entitlement." We believe this provision is in the best interest of all concerned.

If I can be of further assistance, please let me know.

Sincerely,

John C. Bollinger
Associate Legislative Director

WRITTEN QUESTION FROM CHAIRMAN CRANSTON TO LT. GEN. DONALD W. JONES AND THE RESPONSE

Question: Could you please comment on the Commission on Veterans Education Policy's recommendation that if chapter 106 reservist students are made eligible for work-study allowances, then work associated with administration of the chapter 106 program in connection with Guard and Reserve units should be added to the law as a permissible work-study project?

Answer: We have no objection as long as work-study is not performed during drill periods, thereby creating a dual compensation situation.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

AUG 21 1989

Honorable Alan Cranston
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your request, directed initially to the Chief Benefits Director, for the Department of Veterans' Affairs (VA) response to a question from Senator Matsunaga relating to the issue of concurrent receipt of benefits that arose during the Committee's June 9, 1989, hearing.

Your letter also asks VA's views on the draft bill that was introduced as S. 1279. In a separate letter, we will respond to your request for the Department's views on that bill.

Sincerely yours,

Edward J. Derwinski

Enclosure

Senator Spark Matsunga

Question: On page 32 [sic] of your [Mr. R. John Vogel, Chief Benefits Director] written testimony, you state that Federal employees may not collect civil service retirement and compensation for disability under F.E.C.A. Please comment on the enclosed letter from the U.S. Department of Labor to Congressman Mike Bilirakis, which states in the third paragraph that Federal employees may receive under F.E.C.A. disability benefits for partial permanent and permanent disabilities, under section 8107 of title 5, United States Code, concurrently with retirement or salary.

Answer: We appreciate the opportunity to clarify the misunderstanding indicated on page 33 of our written testimony. When we stated that Federal employees may not collect civil service retirement and compensation for disability under F.E.C.A., we were referring to compensation paid under 5 United States Code SS 8105 and 8106 for loss of wages not compensation for the permanent loss or loss of use of each of certain members, organs and functions of the body. We are, therefore, in complete agreement with the statement that you refer to in the third paragraph of the Department of Labor letter of May 2, 1988, that "[c]ompensation benefits paid under the schedule award provision of F.E.C.A., 5 United States Code, Section 8107, may be received concurrently with retirement annuity or salary."

Follow-up questions submitted by Senator Spark Matsunaga to Ms. Barbara Hollinshead in connection with the Committee on Veterans' Affairs June 9, 1989, Hearing

Question:

1. The Joint Tax Committee has stated that returns over a 5-year period for S. 563, a bill similar to Amendment 110, would be $100 million. Could you confirm or otherwise comment on this?

Answer:

The Joint Tax Committee informed me that their estimate was derived by applying an average marginal tax rate for retirees to the value of new benefits received by retirees as a result of S. 563. This seems a reasonable method to calculate these returns.

The committee also informed me that their estimate assumed enactment of the legislation in April 1989 and that the estimated total returns of $100 million are actually for the five and one-half year period from April 1989 through September 1994.

Question:

2. A V.A. witness during the hearing testified that there are a million retirees who might, as a result of Amendment 110, elect to receive V.A. compensation. Are you aware of data that support that concern?

Answer:

This represents the maximum number of additional retirees who could apply for disability compensation from the VA. At the end of fiscal year 1988, there were over 1.4 million military retirees. Of these, 400 thousand already waive all or part of their military pension in order to collect disability compensation from the VA, leaving the 1 million referred to by the VA witness.

A retiree does not, however, simply elect to receive disability compensation. A retiree can elect to undergo a physical evaluation to determine whether he or she is eligible for benefits from a service-connected disability. Final determination on the retiree's eligibility is made by the VA. Retirees with a service-connected disability already have some incentive to collect as great a portion of their benefits as possible from the VA since these disability benefits are not taxable. Also, at the time of their retirement, service members are encouraged to undergo the physical evaluation by the VA. A retiree then routinely chooses compensation from the VA for any service-connected disability that is discovered. If Amendment 110 were to be enacted, it is unlikely that all of the retirees who presently do not receive compensation from the VA would choose to be evaluated by the VA and, further, that all who were evaluated would have a service-connected disability.

WRITTEN QUESTIONS FROM SENATOR MATSUNAGA TO LT. GEN. DONALD W. JONES AND THE RESPONSES

Question: General, it seems that there are inconsistencies between DoD's and CBO's estimates of the cost of eliminating or reducing the offset. You indicate that 290,000 retirees are waiving $762 million in retired pay in order to receive VA disability compensation. Common sense tells me that if Congress were to eliminate the offset completely, as S. 190 would do, the outlay costs to the Government would closely correspond to the amount waived, $762 million. Yet CBO puts the outlay costs at over $1 billion. Could you comment on this?

Answer: The military retirement system is funded under an accrual accounting system. As such, the $762 million currently waived to receive disability compensation would have to be set aside with interest to fund the future liability of payments from the Military Retirement Fund. You indicate CBO puts the cost at over $1 billion. That would appear to be a reasonable estimate of the costs associated with the proposal.

Question: It is my understanding that the purpose of the military retirement fund is to allow for better planning of DoD expenditures; it does not have to be "solvent" in the way that private pension funds are, because the treasury is the ultimate guarantor of trust fund obligations. The fund was established in order to require Congress and the DoD to set aside funds to take care of the future retirement costs of soldiers currently on active duty. In other words, DoD each year must put into the trust fund enough budget authority to fund current and anticipated retirement costs. The actual amount that is set aside for the future retirement of current active duty soldiers is based in part on a certain actuarially derived percentage of basic pay.

A. Is this an accurate description of the Fund?

Answer: Your description of the Fund is correct. The accrual accounting system for military retirement sets aside today the future retirement costs of the men and women of the active force.

B. Let's say that the formula for determining the contribution is now 51 percent of basic pay. Can that contribution percentage be changed, or is it written in stone? Can Congress itself mandate a change in the formula?

Answer: The normal cost percentage that constitutes the DoD contribution to the Fund is set by the DoD Board of Actuaries based on sound actuarial principles in order to keep the Fund solvent. In August 1988, the Board determined that the economic assumptions should be changed. That immediately revised the normal cost percentage, revised the DoD contribution to the Fund, and impacts on the amortization of the unfunded liability.

C. Is it true or not that the major cost of any of the offset bills is the actual outlays to current retirees and that the budget authority contributions are simply intragovernmental "paper" transfers which can be spread out over a longer period?

Answer: The costs of changes in the retirement system under the accrual accounting system can be characterized as intragovernmental transfers within the Unified Budget. These transfers do not affect the deficit; however, they do affect the national debt ceiling. The expanded costs are not simply paper transfers which can be spaced out over a longer period. Rather, the amortization of the unfunded liability is set under 10 USC 1463, et seq., and must be made by the Board of Actuaries consistent with sound actuarial principles. The immediate effect is to increase the Department's budget request and the normal cost percentage, the DoD contribution to the Retirement Fund.

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